

OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of: Case No.: 03-CA-295810

STARBUCKS CORPORATION,

Respondent,

And

WORKERS UNITED,

Charging Party.

Place: Buffalo, New York
Dates: April 18, 2023
Pages: 169 through 441
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The above-entitled matter came on for hearing pursuant to notice, before ADMINISTRATIVE LAW JUDGE ROBERT RINGLER, at the National Labor Relations Board, Region 3, 130 S Elmwood Avenue Suite 630 Buffalo, New York 14202-2465 on Tuesday, April 18th, 2023, at 9:00 a.m.

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P R O C E E D I N G S

(Time Noted: 8:59 a.m.)

JUDGE RINGLER: All right. Let's -- let's go on.

THE COURT REPORTER: On the record, Judge.

JUDGE RINGLER: Okay. We are on. So what's going on?

MR. BALSAM: So first and foremost, yesterday in the beginning of the proceeding, we made certain representations to you at that time seemed to be true. After the conclusion of the hearing yesterday, we confirmed from our third party vendor that produces documents for production.

That there was an issue with the production of the documents, so the initial representation that we would be able to produce all of our documents in full by Thursday morning. Turns out it's not going to be the case. We now going to complete on Friday.

MS. DUPLCHAIN: Friday.

MR. BALSAM: Friday will be the date. Just because there's some issues internally. We instead do -- we'll do a rolling production.

JUDGE RINGLER: Okay.

MR. BALSAM: So that the counsel for General Counsel will receive the documents which we believe by Friday we would be able to completely, give -- give the counsel of the General Counsel our documents, which goes back to your point that they

1 would've had at least the weekend to review everything in full.
2 And then if they need to call witnesses or address the issue at
3 the time, which I already addressed with the counsel of the
4 General Counsel.

5 JUDGE RINGLER: All right. So did you produce
6 anything more today?

7 MR. BALSAM: We have not. We were trying to figure
8 out the issues with the production last night. We were working
9 hours trying to --

10 JUDGE RINGLER: Okay, so when is the next production
11 expected?

12 MS. DUPLCHAIN: So the next production will be by
13 tomorrow morning. It's been submitted, it's been requested, it's
14 in progress. The other documents will be produced by Friday.

15 JUDGE RINGLER: All right.

16 MS. DUPLCHAIN: Again, this was a processing issue.
17 It -- we had about 300 gigabytes of data. And they ran into a
18 snag and it took much longer than they anticipated. We also
19 asked our vendor to provide us a clue --

20 JUDGE RINGLER: So what percent are we going to get
21 tomorrow?

22 MS. DUPLCHAIN: Tomorrow we should be getting about
23 360 documents. I cannot predict exactly how many people get on
24 Friday.

25 JUDGE RINGLER: All right. I mean, it is what it is.

1 You're certainly free to make a statement on the record,
2 obviously request whatever remedy you think is appropriate. Go
3 ahead. If you want to say something, you're certainly welcome,
4 welcome to Yeah.

5 MR. GOODE: With, I -- I think at this point, Judge,
6 our case is we're depending on how, how, how each day goes. We
7 could finish our case in chief towards the -- the first few
8 days of, of next week.

9 JUDGE RINGLER: Okay.

10 MR. GOODE: Potentially, I would say Tuesday's a safe
11 guess, but if we're moving quicker, we're staying till 6:00, it
12 could be Monday. And so the -- the problem with us presenting
13 our witnesses without having the benefit of the subpoena
14 production is -- is the reason that evidentiary sanctions
15 exist. I mean -- I mean that -- that's -- there's a reason for
16 that.

17 And you know, presumably we might be calling
18 witnesses that they might have documents they intend to put in
19 through that witness that we've not seen. Because it's not --
20 I mean, your order was very clear, Judge. The documents need
21 to be produced.

22 JUDGE RINGLER: I appreciate that.

23 MR. GOODE: At the start of the hearing, the first
24 subpoena issued in this case three months ago over three months
25 ago.

1 JUDGE RINGLER: Let me -- let me stop you for a
2 second. So how many of your witnesses are -- if any, are --
3 six, 11c?

4 MR. GOODE: We -- we don't plan to, at the moment we
5 aren't planning any six 11C Judge.

6 JUDGE RINGLER: Okay. So to the extent the documents
7 are business records and to the extent they don't stipulate to
8 the business records, what was the plan in terms of getting
9 those documents stand on the record?

10 MR. GOODE: Well, my assumption, Judge, is that they
11 would, if they were turned over via subpoena, that --

12 JUDGE RINGLER: Right.

13 MR. GOODE: They will be -- the authenticity will be
14 stipulated.

15 JUDGE RINGLER: Okay.

16 MR. GOODE: I mean that, I mean that's --

17 JUDGE RINGLER: I mean, my thought is this to be
18 pragmatic. My thought is that I'll make sure guaranteed that
19 you're not prejudiced by this. So if that means, Judge, I
20 called so and so on Tuesday, I now need to recall them again
21 next Tuesday because I just got these documents. I'll let you
22 do that. If it means, Judge, I'm going to look at them over
23 the weekend, can we start at 1:00 o'clock on Monday instead?
24 Because I need that extra time. I'm amenable so I'll be
25 flexible in terms of -- in terms of dealing with that, my -- my

1 hope is that at the end of the day, you get all the documents
2 you need to present a full case. They get to present their
3 full case and I'm able to hear something without sanctions in,
4 in kind of a neutral -- in kind of a neutral vacuum, so to
5 speak. That's my hope. So as you review these documents, if
6 there are things that you could think of that you could ask of
7 me, Hey, can I recall this witness? Whatever, can we start a
8 little later on a certain day whatever?

9 I'm happy to do those things, so I'll do my best to
10 make sure, and you've got to let me know it's a dialogue, you
11 know, that you're not prejudiced in some way by this and would
12 get the case done and complete.

13 MR. GOODE: The -- the -- the last thing I'll say,
14 just for the record Judge.

15 JUDGE RINGLER: Sure. Absolutely.

16 MR. GOODE: The only other, the -- the real concern
17 that I have, they're going to be cross-examining our witnesses.
18 Potentially with documents that they know exist that are
19 responsive to our subpoena, that haven't been produced, that we
20 haven't seen. And I -- I think that's, I mean they're --
21 they're, one of the -- the specific evidentiary sanctions is --
22 is prohibiting them from doing that. And I -- I think that's,
23 and I understand we can deal with that on a case by case basis,
24 but I -- I just want to note for the record that is
25 particularly why --

1 JUDGE RINGLER: I understand.

2 MR. GOODE: This -- this is so problematic.

3 JUDGE RINGLER: I understand, but once again, it's a
4 bench trial. It's not a jury trial. We don't have to worry
5 about the jury, you know, hearing something and then, you know,
6 you didn't get a chance to -- to respond to it, right? If
7 there are documents that are used by Respondent on cross, I
8 mean, I could be more in terms of your redirect to deal with
9 it. So I think we're going -- all roads I think will lead to
10 Rome at the end of the day.

11 MR. BALSAM: Judge, if I may respond to the last
12 point that the counsel --

13 JUDGE RINGLER: Yes.

14 MR. BALSAM: We have no -- and we have no intention
15 of using any documents that we have not produced for purposes
16 of cross. We are actually prejudicing ourselves by virtue that
17 we're experiencing of the vendor because we can't use documents
18 we haven't produced to cross examine witnesses. This is so --
19 it's -- it's -- more prejudicial to us, I believe, than the
20 counsel for the General Counsel.

21 JUDGE RINGLER: All right.

22 MR. BALSAM: And I will note from Buffalo 1, we
23 produced tens of thousands of pages of documents and they use
24 16. And so the counsel for the General Counsel claims that
25 they're being prejudiced. In reality, they're ready to go. If

1 they weren't, we would not be here today to proceed. That's
2 it.

3 JUDGE RINGLER: Noted for the record. So you let me
4 know as we go. You keep me posted.

5 MR. BALSAM: Of course.

6 JUDGE RINGLER: In terms of when, you know, documents
7 have been produced and what you produced on, on Wednesday
8 morning, we'll take from there. Okay?

9 MR. BALSAM: Yeah.

10 JUDGE RINGLER: Okay. Good enough. All right.

11 MR. GOODE: Judge.

12 JUDGE RINGLER: Yes.

13 MR. GOODE: I just -- again, for, for witness prep,
14 trying to make sure we have everybody here. Do you have plans
15 to work a -- a 9:00 to 6:00 day on Friday? I didn't know if
16 there's --

17 JUDGE RINGLER: Yes. Yeah. My -- my plan is to work
18 a 9:00 to 6:00 day on Friday. Okay. I'm here. So --

19 MR. GOODE: I didn't know if you'd be traveling.

20 JUDGE RINGLER: No, I'm not going to run back and
21 forth. I'd just be in a plane the whole weekend. So stay as
22 long as you want on Friday. Is there anything else you --

23 MR. BALSAM: I was -- we get back, I just want to
24 point it out that yesterday we sent over to the counsel of the
25 General Counsel and yourself Judge our -- our exhibits, that

1 we'd like to include as our Exhibit 1. It was not formally
2 entered into evidence. I'd like to --

3 MR. WHALEN: Do you have a paper copy?

4 MR. BALSAM: A paper copy would be hundreds of pages
5 of documents. And it does have duplicates from the General
6 Counsel's form papers. So we're happy to bring paper copies to
7 the extent they're not duplicative, or the whole --

8 JUDGE RINGLER: Yeah, bring the whole shot. Bring
9 the whole shot.

10 MR. BALSAM: Okay. Do you want copies for everyone?

11 JUDGE RINGLER: It -- I don't know that, that they
12 necessarily want it. Do you folks want copies?

13 MR. GOODE: I -- I have all, all the documents that,
14 that were emailed.

15 JUDGE RINGLER: Okay.

16 MR. GOODE: And, and just on that point, Judge, with
17 respect to General Counsel's or Respondent's answer that have
18 said that we, we omitted inadvertently omitted from the formal
19 papers. How would Your Honor like that to go into the record?
20 Like us to relabel the formal paper to include that, or just
21 include it as --

22 JUDGE RINGLER: No. No, whatever you are upto next.
23 Like (vv), you know, whatever, whatever is next after (vv),
24 (zz). Is that what --

25 MR. GOODE: Okay. Well, whatever after (v), Judge.

1 Okay. I'll do that, Judge.

2 JUDGE RINGLER: Okay. All right. Fair enough. I'm
3 glad everyone still has their sense of humor, so that's good.
4 All right, so we've got another attorney today, so would you
5 like to state your appearance for the record?

6 MR. HAYES: Sure. Judge Ian Hayes. Hayes Dolche
7 Buffalo, New York for the charging party. And I'll be the main
8 one here throughout the case.

9 JUDGE RINGLER: Okay. That was my next question.
10 Are you going to be the -- the main person. Okay, terrific.
11 Well, nice to meet your acquaintance in person. So good. So
12 we've got that. Anything else?

13 MR. GOODE: The only other thing I -- I, I don't know
14 if we formal, I -- I thought it was mentioned, but I don't know
15 if it is. I -- I think, the -- the -- is it -- the union's
16 party representative is Victoria Conklin. I don't know if that
17 was made formal or -- or made notice on the record yesterday.

18 JUDGE RINGLER: It was not so certainly appropriate
19 for her to be here as the party representative. That's more
20 than fine. And I'm assuming that you do not intend to recall
21 her absent the request for rebuttal, correct?

22 MR. GOODE: Yeah. I -- I think that's --

23 JUDGE RINGLER: And if something arises with respect
24 to your documents that we've talked about as well, that would
25 be probably the second part of that, so, okay. More than fine.

1 Thank you for letting me know. All right --

2 MR. GOODE: Nothing else, Judge.

3 JUDGE RINGLER: All right. So let's get our next
4 witness on the stand.

5 MR. GOODE: Calling Alexis Rizzo, Judge.

6 JUDGE RINGLER: Okay. Hello. Good morning. So
7 before we swear in Ms. Rizzo, what complaint paragraphs is she
8 known to testify about and whose witness is it?

9 MR. GOODE: It's mine Judge.

10 JUDGE RINGLER: Okay. And if you have a couple
11 water, it's fine. Or coffee or whatever.

12 THE WITNESS: I didn't bring one, but I should have.
13 I didn't know if it would be okay. So I left it at home.
14 Thank you.

15 JUDGE RINGLER: No, you're welcome.

16 THE WITNESS: Now I know next time.

17 JUDGE RINGLER: There you go.

18 MR. GOODE: Judge, I -- I believe this witness will
19 touch on, or provide testimony related to complaint paragraphs
20 8(E), 9(B) through D, 9(I) and 11(E) and H, Judge.

21 JUDGE RINGLER: 11(E) and H. Perfect. Okay. So
22 first and foremost, if you can state your name for the record
23 and spell it for us first and last.

24 THE WITNESS: Alexis Rizzo, A-L-E-X-I-S, R-I-Z-Z-O.

25 JUDGE RINGLER: All right. Perfect. Please raise

1 your right hand.

2 Whereupon,

3 ALEXIS RIZZO,

4 was called as a witness having been previously duly sworn, was
5 examined and testified as follows:

6 JUDGE RINGLER: Okay. All right. Your witness.

7 MR. GOODE: Thank you, Your Honor.

8 JUDGE RINGLER: Yes.

9 DIRECT EXAMINATION

10 BY MR. GOODE:

11 Q. Alexis, what are your pronouns?

12 A. She, her.

13 Q. Have you, Alexis, have you worked for Starbucks?

14 A. Yes.

15 Q. When did you first begin working for Starbucks?

16 A. My first day was, I believe, October 5th in 2015.

17 Q. And what store were you hired into?

18 A. I was hired into the Fifth Avenue store, which is in
19 Naples, Florida.

20 Q. Okay. Did you work in any other stores?

21 A. Yeah, I worked with like, worked shifts in a lot of
22 different stores, but my home store after that has been a
23 Genesee Street in Chisago.

24 Q. And when did you -- when did the Genesee Street store
25 become your home store?

1 A. I moved there in May of 2017. I moved to Buffalo.

2 Q. Are you currently still employed by Starbucks?

3 A. I'm not, as of March 31st this year.

4 Q. And were you discharged from Starbucks?

5 A. Yeah, I was fired.

6 Q. Alexis, are you familiar with Starbucks, Workers United?

7 A. I am, yes.

8 MR. BALSAM: Objection, this thing is no Starbucks,
9 Workers United, there's Workers United. It characterized as
10 what is known as the organization.

11 JUDGE RINGLER: Okay. Are you familiar with Workers
12 United?

13 THE WITNESS: I am.

14 JUDGE RINGLER: All right.

15 BY MR. GOODE:

16 Q. How are you familiar with workers?

17 A. I was a member of the organizing committee back in 2021 in
18 the summer. That sound like the original letter to Kevin
19 Johnson, the union effort here and elsewhere in Starbucks.

20 Q. Was your name signed to that initial letter?

21 A. Yes.

22 Q. Have you continued to support the -- the Union?

23 A. Yeah, very much so.

24 Q. Can you explain how?

25 A. Yeah. I mean I work, I'm very vocally pro-union. I talk

1 about it a lot. I wore pins, I do Union events, so those
2 strikes. All sorts of things.

3 MR. GOODE: Judge, may I approach?

4 JUDGE RINGLER: Of course.

5 MR. GOODE: All right, thank you. We'll email you.

6 JUDGE RINGLER: Yeah. And as, and just as a standing
7 rule, you folks, and this is collectively, don't need to ask.
8 If you need to approach it, it's fine. Now, sometimes old
9 habits die hard. Yeah. So if you do, I won't hold it against
10 you, but you don't need to. That's what I'm saying.

11 BY MR. GOODE:

12 Q. Okay. Alexis, I'm showing you what's been marked for
13 purposes of identification as GC Exhibit 8. Can you please
14 take a look at this document? Do you recognize this document?

15 A. I do.

16 Q. Okay. What is this document?

17 A. This was the final warning that was delivered to me in
18 September of last year, September 18th of last year.

19 (General Counsel's Exhibit 8 identified.)

20 Q. Is that your signature on the bottom?

21 A. Yes. It is.

22 MR. GOODE: Judge, I move for the admission of GC
23 Exhibit 8.

24 JUDGE RINGLER: All right. Any objection to Exhibit
25 8?

1 MR. BALSAM: No objection.

2 JUDGE RINGLER: All right. So we'll admit GC-8.

3 (General Counsel's Exhibit GC-8 admitted into
4 evidence.)

5 BY MR. GOODE:

6 Q. Alexis, can I have you -- can I direct your attention to
7 the -- the written line that begins with, despite this come on,
8 on 829? Let me know when you're there.

9 A. Yeah, I see it.

10 Q. Okay. Did you work on August 29th, 2022?

11 A. I did not, no.

12 Q. Did you work on August 28th, 2022?

13 A. I was scheduled, I believe on the 28th. Yeah, I wasn't
14 scheduled on the 29th. I think that was a Monday. It would've
15 been -- been a day off work.

16 Q. Okay. What time were you scheduled on August 28th?

17 A. 4:30 a.m.

18 Q. Let me -- let me step back, I should ask this earlier.
19 What position did you hold with Starbucks?

20 A. Oh, I was a shift supervisor.

21 Q. Okay. And as a shift supervisor, just briefly describe
22 your duties?

23 A. I have a key to the store, so I run the shift while I'm
24 working, so I, you know, tell my baristas what position they'll
25 be in. Do inventory. Do cash handling, that's a lot of

1 things. Cleaning. I also make drinks and make food and stuff,
2 but you know, it's a lot of different things we do.

3 Q. Did you show up for your shift on August 28th?

4 A. No, I didn't.

5 Q. Take us through what happened.

6 A. So the night previously I had worked at some point
7 throughout the night. What time when --

8 JUDGE RINGLER: You said August 28th?

9 MR. GOODE: August 28th.

10 JUDGE RINGLER: Okay.

11 MR. GOODE: I'm sorry.

12 JUDGE RINGLER: Go ahead.

13 THE WITNESS: Thank you.

14 BY MR. GOODE:

15 A. So I was -- I had chronic migraine, so every once in a
16 while, like I hit like a truck. It was like 7:00 p.m. The
17 night before when I was trying to go to bed, I gotten sick and
18 then I had been woken up the next morning to one of my
19 coworkers banging at my front door. It was probably like 9:00
20 something in the morning. He was very concerned because I
21 hadn't gone to work and I was obviously very out of character
22 so my store was concerned. I had gotten in an accident or
23 something had happened, so he came to wake me up.

24 Q. Okay. What happened after you were woken up?

25 A. I was numb, like kind of pulled on panic. I had started

1 like sobbing uncontrollably and called my store manager, and
2 then talked to her.

3 Q. And who's your store manager at that time?

4 A. Julie Wrobel.

5 Q. And take us through your phone call to Julie?

6 A. I was a mess, so she was kind of trying to calm me down
7 primarily. Because I was just sobbing. I felt horrible, and
8 she kind of told me it's okay. Like I send the other store
9 partners to work at the Walden Anderson location, so they're
10 still going to work today. Like, just take a deep breath,
11 like, you're fine. It was a pretty short phone call. She
12 sounded like mildly frustrated, but it was just like calm down
13 and like I was just very incoherent at the time.

14 Q. You mentioned that the other partners were sent to a
15 different store. Do you know how many partners were scheduled
16 that morning?

17 A. I don't know exactly. Normally at Genesee Street, we
18 don't think five people scheduled a normal morning on a Sunday
19 but more or less.

20 Q. Are there a certain number of partners that need to be
21 present for the store to open?

22 A. Yeah. So you're not allowed to go into the store by
23 yourself. So it has to be like the supervisor, at least one
24 other, barista or another supervisor. At least two people.

25 Q. Have you in your time at Genesee Street ever experienced

1 not being able to open because there weren't enough people who
2 show up for the opening shift?

3 A. Yeah. Many times with myself, I guess the opening
4 supervisor, my barista's running later can't come in, then I'd
5 have to wait for the next person to come in or vice versa.
6 Again, it happens a lot.

7 Q. Can you, can you estimate approximately how many times
8 that has happened?

9 A. At least like once a month, throughout the course of my
10 years opening, it's happened to me at least 10 times, I've been
11 opening since 2021.

12 Q. Okay. And in those circumstances, were you sent to go to
13 a different store for work?

14 A. No.

15 Q. What happened?

16 A. I would either wait for the next scheduled partner to come
17 in for their shift or someone else would come in, like my store
18 manager if I could wake them up, try to get a hold of another
19 partner, or just wait until someone else came and then we would
20 open again later eventually.

21 Q. Did you have any further communication with Julie that
22 day?

23 A. Yeah, I did. I -- I felt, again, I felt really, really
24 bad. So I texted her and I just apologized. I was just like,
25 really -- and like the bottom of my heart. I'm so sorry. Like

1 I so bad. And she told me, you know, it's okay.

2 I'm just glad you're okay. Mistakes happen and I
3 asked her if she like, wanted me to go in and help John because
4 he was going to be coming into open our store at 12:00 and I
5 had offered like multiple times to go in and help him on the
6 phone or go into my store to work. And she was like, don't
7 worry about it, just take the day off. I'm just glad you're
8 okay.

9 Q. Do you know John's last name?

10 A. Nievis, which I can spell it if you want.

11 Q. Yeah.

12 A. It's N-I-E-V-E-S.

13 Q. What position does John hold?

14 A. He's our shift supervisor as well.

15 Q. Between -- Alexis between August 28th and receiving this
16 final written warning on the, on September 18th, did anybody
17 from Starbucks speak to you about missing your shift on August
18 28th?

19 MR. BALSAM: Objection move to strike. She
20 previously testified that her manager Julie Wrobel spoke to her
21 about missing her shift.

22 MR. GOODE: The question was between, in the time
23 period between.

24 JUDGE RINGLER: Okay. I'll -- I'll leave it,
25 overruled.

1 BY MR. GOODE:

2 Q. Alexis, where were you when you received your final
3 written warning?

4 A. I was in the back room of my store putting the boxes away
5 from pulling them breakfast sandwiches and stuff like that. It
6 was a little bit after my shift had ended. I think I was
7 supposed to leave at 1:00 that day and I was still like, trying
8 to finish up all my supervisor tasks, just like doing order and
9 stuff, as in fact.

10 Q. So you were, you worked on September 18th?

11 A. Yes. Yeah.

12 Q. Take us through when you were presented with this
13 corrective action?

14 A. Yes sir.

15 MR. BALSAM: Objection, relevance.

16 JUDGE RINGLER: Overruled. You can answer.

17 BY MR. GOODE:

18 Q. Go, ahead.

19 A. I was, like I said, I was in the back of my store putting
20 boxes away. It was Julie's day off, so she had come in with
21 another store manager. I didn't know who it was at the time,
22 but another partner told me like later, it's Heather, they came
23 in and just, I was doing the boxes. Julie was kind of like
24 trying to avoid making eye contact, so I knew something was
25 wrong.

1 She looked at me and she was like, okay, so don't
2 worry. Like, I'm not firing you right now, so you don't need
3 to witness, but like, I need to give this to you. And I knew,
4 I figured what it was about because I've been in like a state
5 of anxiety since this happened. Wondering. And then she, it
6 was pretty short. She delivered it to me.

7 I apologized. I said like, I know. I'm like, I made
8 a mistake. I'm sorry that this happened. And at the time I
9 didn't realize. It was a final, so I wasn't super concerned
10 and I just kind of signed it and went home.

11 Q. Did Julie say anything else in this conversation?

12 A. Not specifically that I could recall. It was a pretty
13 short conversation. She said like, I -- like don't want to
14 give this to you. Please don't make me give you the next one.
15 I remember her saying that, deliver the next level. She was
16 generally pretty anxious. And while we were talking about it.

17 Q. Do you -- you mentioned the other store manager you
18 learned her name was Heather. Do you -- do you know Heather's
19 last name?

20 A. I don't. It's here on the paper, but I didn't, I wasn't
21 aware of it at the time.

22 JUDGE RINGLER: Is it Phillipowski or Phillipowski?
23 I'm trying to read.

24 MS. DUPLCHAIN: I think it's --

25 JUDGE RINGLER: -- the writing.

1 MS. DUPLECHAIN: I think it's Phillipowski.

2 JUDGE RINGLER: Okay.

3 BY MR. GOODE:

4 Q. Alexis, I'm going to direct your attention. That's a GC
5 Exhibit 8, the line that begins previously.

6 A. Yes.

7 Q. Do you recall receiving a -- a written warning on about
8 September 24th?

9 A. I do. Yeah. The year prior to this.

10 Q. Between September 24th, 2021 and August 28th, 2022, did
11 you have any attendance or punctuality corrective actions?

12 A. No.

13 Q. Alexis, are you aware of how long corrective action belong
14 stays on an employees record?

15 MR. BALSAM: Objection. This individual is not a
16 manager at Starbucks, and therefore she has no knowledge as to
17 Starbucks.

18 JUDGE RINGLER: It's possible as a shift supervisor,
19 she knows, and if she's wrong, I'm sure you're going to present
20 managers that'll, you know, enlighten me and educate me about
21 that. So, go ahead.

22 THE WITNESS: Yeah, in my practice it's always been a
23 six month probationary period. That's what all my store
24 managers have always taught me. What they've always told me to
25 tell my baristas in practice that's always in years past,

1 always how I've seen it play out is it's six months.

2 So if you don't do anything wrong in six months, the
3 previous thing falls off your record and you have a clean slate
4 to move forward essentially, and you go back down to like a
5 documented coaching something were to happen again.

6 JUDGE RINGLER: And if you recall, which managers
7 told you that?

8 THE WITNESS: I've had -- I've had a lot of store
9 managers, Kira McGochi (phonetic) was my first store manager
10 down in Florida. And then after that I had, Kara here in
11 Buffalo, but I can't remember her last name. After that was
12 David Almond, and then after that was Christopher Wright and
13 then my district manager, David Lafroy (phonetic), had
14 explicitly told me like a few different times about the
15 probationary period because at that time we had some issues
16 with other opening shifts at my store. I was closing at the
17 time. They were having time and attendance issues. So he had
18 come in and talk to them about that and let them know like, you
19 need to go six months without this issue, so then your record
20 can be clean. It's -- it's just always been like that.

21 JUDGE RINGLER: And as a shift supervisor, you were
22 charged with communicating with baristas?

23 THE WITNESS: Yeah, yeah. Letting them know if they
24 have questions. Like it's our job to know most of the policies
25 so that we can guide them on, you know, with the right things

1 to do.

2 JUDGE RINGLER: Okay.

3 THE WITNESS: I usually go by what my store managers
4 explain what policies are.

5 JUDGE RINGLER: All right, Counsel. Go ahead.

6 BY MR. GOODE:

7 Q. Alexis. Can you give us any examples of any specific
8 examples of your store not being able to open because another
9 partner was late?

10 A. Yeah, it happened to me during this anti -- this whole
11 period of Union campaign and all the support managers, that
12 whole period of time I had, not only the barista that was
13 opening me, but then my next two baristas that were coming in
14 not show up. So I ended up not being able to open the store
15 till at 7:30.

16 They were like partners from other stores. I can't
17 recall their names specifically, but that was one of the longer
18 ones. There's also my fellow shift supervisor Stark Harriet
19 (phonetic), she has issues with, finding childcare for her
20 baby, so there's been multiple mornings where like I've been
21 asked to come open because she wasn't able to come in and so
22 she ended up opening like an hour or two later.

23 It happens frequently or just a week before I was
24 fired, Danka had a morning where she had to open late because
25 her barista didn't come in. So it's a pretty common occasion

1 in opening shifts.

2 Q. Are you aware, Alexis, of any partners being issued a
3 final written warning for a one time attendance violation?

4 A. No.

5 Q. I've handed you what's been marked for purposes of
6 identifications, GC Exhibit 9. Can you please take a look at
7 this document?

8 A. Yes.

9 Q. Do you recognize what's depicted in this document?

10 A. I do. Yeah

11 Q. What is that?

12 A. It's a pin for the American foundation for suicide
13 prevention. It's a pin that I wore on my apron for time.
14 Other Starbucks partners attempted to do the same or did the
15 same.

16 (General Counsel's Exhibit 9 identified.)

17 Q. Is what's in this picture a fair and accurate
18 representation of the pin that you would wear at your store?

19 A. Yeah, yeah. I think I might have one in my pocket
20 actually.

21 MR. GOODE: Your Honor, I move for the admission of
22 GC Exhibit 9.

23 JUDGE RINGLER: All right. Any objection to GC-9?

24 MR. BALSAM: No objection. I -- I just note that
25 objection the fact that there is a pin, representative of the

1 organization.

2 JUDGE RINGLER: I'm not sure I understand your
3 statement, you're, you're not objecting to, if --

4 MR. BALSAM: It's being offered simply that this is a
5 pin that's from the American Foundation for pursuit suicide
6 prevention, then I have no objection to that.

7 JUDGE RINGLER: Okay. I think it's also being
8 offered as an example of pins that she wore, though. So just
9 be, be clear on that front.

10 MR. BALSAM: All right. I object to that point. I -
11 - I can ask the witness questions on the cross about it, but --

12 JUDGE RINGLER: Okay.

13 MR. BALSAM: You're going to admit anyway there's any
14 --

15 JUDGE RINGLER: Yeah, no. I -- I'm going to, I'm
16 going to certainly admit, GC-9, but certainly if you want to
17 ask on cross when it was worn, how often? That's fine.

18 (General Counsel's Exhibit GC-9 admitted into
19 evidence.)

20 BY MR. GOODE:

21 Q. Alexis, so approximately when did you begin wearing that
22 pin?

23 A. I wore it when I found out that Will Westlake was
24 separated from his location. Because it, it made me really
25 upset on a personal level. That's not the company that I know

1 and work for, and I honestly wouldn't believe it.

2 MR. GOODE: Objection. Move to strike as non
3 responsive. The question was, when did you start wearing it?
4 Everything beyond the date you started wearing. It is not
5 responsive.

6 JUDGE RINGLER: I'll -- I'll sustain that. Counsel,
7 you could certainly ask follow up, but it's more than I think
8 you asked for.

9 BY MR. GOODE:

10 Q. Do you -- do you know what, approximately what time of
11 year you began wearing?

12 A. I -- I don't know the exact date. No, I don't want to
13 make an estimation. It was right after it was separated.

14 Q. Okay. Do you -- do you know approximately what year you
15 began wearing?

16 A. It's probably 22.

17 Q. And can you describe, how you would wear the pin?

18 A. I would wear it on my apron of work while I was working.
19 Right on my tag.

20 Q. How often would you wear that?

21 A. I wore it every day that I worked until I was told.

22 Q. Okay, approximately when were you told to a it?

23 A. I -- I don't want to give the estimate. It was, it was, I
24 probably had been wearing it consistently for only a few weeks
25 when my district manager told me to take it off when she came

1 in.

2 Q. Do you know if that was prior or after, after Will
3 Westlake was separated?

4 A. It was about

5 Q. Were you ever told to take the pin off prior to that?

6 A. No.

7 Q. Did you wear that in front of store managers?

8 A. I did, yeah. In front of my store manager.

9 Q. Alexis, in the, in the summer of 2022, who was the point
10 of contact for the Union at the Genesee Street store?

11 A. It was myself and then my fellow shift supervisor Danka.

12 Q. Are you aware that Danka, was issued a corrective action
13 on about August 8th, 22?

14 A. Yeah, I did hear about that.

15 Q. Did the employer notify you prior to issuing that
16 discipline to Danka?

17 A. No.

18 Q. Do you -- was the Union offer -- given the opportunity to
19 bargain over that corrective action prior to being issued?

20 A. No.

21 Q. Well, Alexis, while working do you talk to your coworkers?

22 A. Yeah, all the time.

23 Q. How do you, how do you typically communicate with your,
24 your coworkers while working?

25 MR. GOODE: Objection, relevance.

1 JUDGE RINGLER: Overruled.

2 BY MR. GOODE:

3 A. Normally since we're a drive-through store, it's primarily
4 using the -- the drive-through headsets. We have like one
5 button that talks with the actual customer that's in the lane
6 outside, but we have another button that just talks to all of
7 us. So we use that to talk mostly. So then we can speak
8 quiet, you know.

9 Q. What types of conversations do you have with your
10 coworkers?

11 MR. BALSAM: Objection. Relevance.

12 JUDGE RINGLER: Overruled. You can answer.

13 BY MR. GOODE:

14 A. All sorts. Yeah. It could be anything from like, I need
15 you to grab me cups from the back to like a dat we went on the
16 night before. Personal things, stories, about our cats. Like
17 anything we talk, we talk a lot. Yeah.

18 Q. How, how often, would there be discussions about personal
19 digging amongst the employees?

20 A. Everyday.

21 MR. BALSAM: Objection relevance.

22 JUDGE RINGLER: Counsel --

23 MR. GOODE: This goes to a specific, corrective
24 action that was issued, the complaint.

25 JUDGE RINGLER: I'll indulge you. You can answer.

1 BY MR. GOODE:

2 A. I -- every shift all the time consistently. It's just how
3 Starbucks is. Yeah.

4 Q. Can you describe the nature of these conversations related
5 to -- to employees dating life?

6 A. Like, oh, yeah. I mean, talk about everything. Talk
7 about like having fun nights out, bad dates --

8 MR. BALSAM: Objection, hearsay, relevance.

9 JUDGE RINGLER: Overruled. I'll, I'm going to allow
10 this line of questioning. So, go ahead.

11 BY MR. GOODE:

12 A. Yeah. I mean, we're all really close friends, so it's
13 like mostly just how you talk to like your girls on a night
14 out, about like a day you went on. Like we get very casual and
15 personal. The headsets make it so that you don't have to say
16 it loudly enough or anyone else can hear you. So we talk about
17 everything. I mean, I've talked about like bad kissing, like
18 bad dates, like all sorts of stuff. It's just a very casual
19 environment as far as that kind of thing goes.

20 Q. Was your store manager involved in any of these
21 conversations?

22 A. If she was working, then definitely, yeah, I'd really like
23 to have fun with us and joke, laugh, and she was always
24 involved in our chats if she was out the floor.

25 Q. Did she share her own stories?

1 A. Oh yeah. If she had been, she's a single mom too, so
2 she's been on some bad days and whatnot, so we talk about -- I
3 mean, we have a close relationship. It's not like a -- it's a
4 very like, close working environment. We're all very close
5 good friends. So we talk about all sorts of things.

6 MR. GOODE: May I have one moment, Judge I think I
7 might --

8 JUDGE RINGLER: Yes.

9 BY MR. GOODE:

10 Q. Alexis, do you recall the name of the district manager
11 that told you to remove, the -- the pin that's depicted in GC
12 Exhibit 9?

13 A. Yeah, it was Tiffany Mane he was our manager.

14 MR. GOODE: I have nothing further.

15 JUDGE RINGLER: Okay. Let me just catch up on my
16 notes for a moment. All right, Mr. Hayes, you have anything?

17 MR. HAYES: No questions, Your Honor.

18 JUDGE RINGLER: Okay. And cross? What do we get?

19 MR. GOODE: I've got, I've got one affidavit, from
20 this case it is seven pages. Your Honor, out of abundance of
21 caution, I'm going to provide the affidavit from Buffalo 1,
22 it's 25 pages. I don't believe there's a lot germane in there,
23 but --

24 JUDGE RINGLER: I appreciate that.

25 MR. GOODE: And I -- I also would note, and, and

1 Respondent will be able to correct me if I'm wrong, I believe
2 as part of district court filing, Respondent has this Exhibit
3 already has this affidavit already so.

4 JUDGE RINGLER: Okay. Let me know, counsel, if you
5 have that affidavit already. Because that'll probably impact -
6 -

7 MR. BALSAM: I'm sure by virtue of the 10J proceeding
8 we do have do it.

9 JUDGE RINGLER: You do have it. Okay.

10 MR. BALSAM: Presently in my position, no.

11 JUDGE RINGLER: All right. All right. So it's 9:40,
12 we'll reconvene at 10:00 and start with cross at this time.

13 MR. BALSAM: I'm sorry, what time?

14 JUDGE RINGLER: 10:00 o'clock. That's good. Thank
15 you. All right. So in the interim, you're free to stretch
16 your legs, whatever, don't discuss your testimony with anyone.

17 THE WITNESS: Thank you.

18 MR. GOODE: Judge, what time do you typically break
19 for lunch?

20 JUDGE RINGLER: I think it depends on the flow of how
21 things are going. If -- if noon makes sense because we just
22 completed a witness, it'll be noon if, you know, we just
23 complete somebody at 1:00 o'clock, then it'll kind of be then,
24 so, you know, you could kind of guide me in that regard a
25 little bit as well.

1 MR. GOODE: And I -- well I -- Do you want to say for
2 just briefly --

3 JUDGE RINGLER: Yeah, sure.

4 MR. GOODE: I've got a witness. I've already got
5 another witness here. I've got a third witness I've told to be
6 here approximately around 12:00. So I -- I'm trying to figure
7 out if we'll start that witness prior to lunch or if we'll
8 break.

9 JUDGE RINGLER: Yeah, we could start that witness at
10 12:00, then by that time we review the affidavit that will be
11 combo, Jencks, lunch break.

12 MR. GOODE: All right, thank you, Judge.

13 JUDGE RINGLER: Okay.

14 (Brief recess at 9:41 a.m./Reconvened at 9:59 a.m.)

15 JUDGE RINGLER: Okay, just let me know when you're
16 ready and we'll go on the record.

17 MR. BALSAM: All right.

18 THE COURT REPORTER: On the record.

19 JUDGE RINGLER: Okay, we're back on. Go ahead.

20 CROSS EXAMINATION

21 BY MR. BALSAM:

22 Q. You testified that you began working for Starbucks in as
23 far as 2017, is that correct?

24 A. 2015, October. 2015.

25 Q. You transferred to Gen State Street in 2017, right?

1 A. Yes. Yeah.

2 Q. And when you started working for Starbucks, were you
3 issued a partner guide?

4 A. I'm sure I was. Yeah. It was so long ago. I can't
5 exactly remember.

6 Q. And at some point in time, subsequent to your commencement
7 of work at Starbucks, you transferred to Buffalo in May of 17
8 and you were provided a document that reiterated the attendance
9 punctuality policy, correct?

10 A. Potentially, I don't have like a specific memory of that,
11 but, yeah.

12 JUDGE RINGLER: Okay, thank you.

13 BY MR. BALSAM:

14 Q. Do you recognize this marked as RX-8?

15 A. I do, yes.

16 Q. And you see where it says partner originally?

17 A. I think this, oh yeah, this was the one that was given to
18 us during the store meeting.

19 (Respondent's Exhibit 8 identified.)

20 Q. Okay.

21 A. Yeah, I do.

22 Q. And are those initials, your initials?

23 A. Yeah.

24 Q. And -- and on this document, you acknowledge receipt of
25 the meal break policy, the overtime paid policy, the

1 punctuality policy, as well as the dress code policy, correct?

2 A. Correct.

3 MR. BALSAM: I'd like to move into evidence R-8.

4 JUDGE RINGLER: Any objection to R-8?

5 MR. GOODE: Your Honor, I --I -- I only object. I do
6 object, similar to our objection yesterday. This appears to be
7 part of a -- a larger policy. And I -- I note like on page
8 two, it says page 28 to 30 in parentheses page one. There's
9 Page 27, Page 19.

10 And in our complaint, we've alleged a certain
11 attendance policy. And Respondent admitted that that policy
12 was in the 2020 partner guide, but denied the remaining part of
13 the allegation. So to the extent Respondent is arguing or
14 presenting a different policy than the one we have alleged in
15 the complaint I object to this document as being incomplete.

16 JUDGE RINGLER: Do you want to respond now?

17 MR. BALSAM: I can respond in two different ways.
18 One from my recollection to have next says on or about the
19 relevant times in the complaint, as you recall, Judge, about
20 the motion to Bill particular is asking, particular is asked
21 some of the allegations that motion was denied.

22 And so there are various times in, in place here that
23 potentially are relevant to this complaint, including the fact
24 that this witness did testify to a given time. And so, yes,
25 there was one policy in effect.

1 This doesn't necessarily discount that policy that's
2 referenced in the complaint, we will be in the minute talking
3 about the 2020 policy that's reflected. And so I'm not sure
4 what the issue is. This is a complete documents, a business
5 record witness testified that she read and reviewed it, so I
6 don't know what the issue is.

7 JUDGE RINGLER: All right, I'm going to admit R-8.
8 So please continue. All right, thank you.

9 (Respondent's Exhibit R-8 admitted into evidence.)

10 BY MR. BALSAM:

11 Q. You've been handling what's been marked R-8, R number 9.
12 Do you recognize RX number 9?

13 A. I don't recognize it, but I, you know, it's like, it would
14 be like the last page of the partner guide.

15 (Respondent's Exhibit 9 identified.)

16 Q. All right. So when I asked you before if you were issued
17 a copy of the partner guide, you said you weren't sure, you
18 thought probably were?

19 A. Yeah.

20 Q. A copy of that?

21 A. I just don't specifically remember like the day that it
22 happened.

23 Q. Okay. Does this refresh your recollection as the date
24 that you were issued a partner guide?

25 A. Yeah. According to this it was in May 2020.

1 Q. Okay. And is that your signature on the bottom of the
2 document?

3 A. It is.

4 MR. BALSAM: I'd like to move into evidence Rx-9.
5 For the purpose of showing that this witness received a copy of
6 the partner guide reflected on this document.

7 JUDGE RINGLER: I'll admit R-9.

8 (Respondent's Exhibit R-9 admitted into received.)

9 MR. GOODE: I just note, same objection for record,
10 Judge.

11 JUDGE RINGLER: Yes. Dully noted. Thank you.

12 BY MR. BALSAM:

13 Q. Now, Ms. Rizzo, isn't it true that you had received
14 multiple time in attendance corrective of actions, discipline
15 over the year that you worked at Starbucks?

16 A. Probably, yeah.

17 Q. Are you not sure?

18 A. I just don't, off the top of my head, no the number, so I
19 don't want to an incorrect number, it's work and everything and
20 they will have some probably.

21 Q. In fact, in 2017 when you were working in the Buffalo
22 market, you did in fact receive a time in attendance corrective
23 action at that time?

24 MR. GOODE: Objection, Your Honor. It's not
25 relevant. The -- the final written warning has the basis for

1 the final written warning in it.

2 JUDGE RINGLER: Sustained.

3 MR. BALSAM: May I respond?

4 JUDGE RINGLER: You can respond but it's gone.

5 MR. BALSAM: She just testified to a concept that
6 after six month period of time, final document coaching
7 discipline removes from the partner's record. This goes to
8 refute that testimony.

9 JUDGE RINGLER: Yeah, I -- I still feel that 2017 is
10 reaching way too far in the history of this to have any
11 relevance at all.

12 MR. BALSAM: So -- so I'm not even able to show up
13 the witness part of her personnel file that contains a document
14 from 2017?

15 JUDGE RINGLER: So what is the relevance?

16 MR. BALSAM: The witness testified to this after a
17 six month period of time that she was telling other people,
18 other partners since at least that period of time. Every six
19 months documents corrective actions go away.

20 JUDGE RINGLER: Right.

21 MR. BALSAM: This document from 2017 will show that
22 the witness is not actually, actually accurate in the
23 testimony.

24 JUDGE RINGLER: Okay. For that purpose, I'll permit
25 it.

1 MR. GOODE: May I respond, Judge?

2 JUDGE RINGLER: No, go ahead. We'll deal with it as
3 it comes in.

4 BY MR. BALSAM:

5 Q. Ms. Rizzo, you've been handed R-10. Do you recognize R-
6 10?

7 A. I don't. Just because it was from so long ago, so I'm
8 just reading it. Bear with me. Okay.

9 Q. Ms. Rizzo, do you recognize R-10?

10 A. I do.

11 Q. Is R-10 a corrective action form that was issued to you on
12 8/14/2017 for time attendance infractions?

13 A. I -- I guess so. Again, this was so long ago that I don't
14 remember it happening personally, but that's my signature.

15 (Respondent's Exhibit 10 identified.)

16 Q. Okay.

17 A. I believe that it happened, yes.

18 Q. Okay. So -- so we're on the same page. The -- the
19 content in the boxes under statement situation that's related
20 to lateness, correct?

21 A. Yes.

22 Q. I'm going to draw your attention to the middle of the page
23 below where it says documented coaching. There's a statement,
24 do you see that?

25 A. I do.

1 Q. Can you see where it says this form will be maintained
2 permanently in your partner file?

3 MR. GOODE: Judge, I object to reading a document
4 that's not in evidence.

5 JUDGE RINGLER: I'll -- I'll permit the questioning
6 on that. So let me, let me just, maybe cut to the chase a
7 little bit. It looks like that language is in all of the
8 disciplinary forms we have. Is that correct?

9 MR. BALSAM: That's correct, Judge. And again, it
10 goes --

11 JUDGE RINGLER: So this is not uniquely relevant to
12 what you're raising about this six month expungement issue.
13 It's basically repeated throughout all of the disciplinary
14 forms?

15 MR. BALSAM: Yes, but, but the timing is important,
16 Judge. Because this witness has testified to the fact that
17 from the beginning of her time, she contended that store
18 manager's district management for telling her that prior
19 discipline goes away after six months. I --

20 JUDGE RINGLER: Okay.

21 MR. BALSAM: This outright refutes that testimony.

22 MR. GOODE: Judge, I just -- for the record, there's
23 a difference. I mean, this witness has no idea. She doesn't
24 maintain the personnel file. She doesn't know if the document
25 is physically removed from the personnel file. The testimony

1 is that it's not really --

2 JUDGE RINGLER: No, it's really a question of fact.

3 I -- continue.

4 MR. BALSAM: Thank you, Judge.

5 BY MR. BALSAM:

6 Q. Ms. Rizzo, the statement is, this form will be maintained
7 permanently in your partner file. There's no guarantee that
8 you'll receive a minimum number of warnings prior to separation
9 of employment or that corrective action will occur in any set
10 matter, correct?

11 A. That's what it says, yes.

12 Q. So when you testified earlier that from at least 2017, you
13 were told that you had, there was a six month period in which
14 corrective action to go away. This document refutes that
15 statement. Correct?

16 A. It doesn't refute what my manager's taught me.

17 Q. But the document repeats a statement, correct?

18 MR. GOODE: Objection. Asked and answered, Judge.

19 JUDGE RINGLER: Overruled. You can answer.

20 BY MR. BALSAM:

21 A. Not -- I wouldn't say somehow.

22 Q. Why is that?

23 A. Because in practice, that's never the way that I've seen
24 discipline carry out at Starbucks.

25 Q. Never?

1 A. No. Never.

2 Q. Have you ever issued discipline yourself to any partner?

3 A. No.

4 Q. So how would you not have discipline is issued to any
5 partner in any market?

6 A. We speak to each other and I see -- I mean, I talk to my
7 store managers, I see what they do. I'm in the store all the
8 time. And if partner is disciplined or separated for any
9 reason, I would know we would talk about it and I would know
10 why. Yeah. I've just never seen that happen.

11 Q. In every market you're aware of every how discipline is
12 issued?

13 A. I'm just speaking to how things have happened at my store
14 in years prior, before the Union campaign.

15 Q. So you're speaking just about the Genesee Street store?

16 A. In stores where I've been working, yes. And my managers
17 that I've worked with.

18 Q. What stores were those store?

19 A. The Genesee Street store, the Fifth Avenue store in
20 Naples. Other stores that I picked up shifts at which there's
21 a lot.

22 Q. Which store those stores of those where you were aware of
23 what discipline was issued and what circumstances of those
24 discipline Other than Naples and Genesee Street?

25 A. I worked very heavily at a store in Naples. It was on

1 like, it was called like the Goodland store. I don't know what
2 the actual street address up it is. There was another store
3 there called Central that I worked at all the time. I was very
4 close with partners there. It's just like throughout my career
5 with Starbucks, that's always what I've seen practice with
6 store managers.

7 Q. Right. But I'm asking about other than Naples in the
8 Genesee Street store, you said you picked up multiple shifts at
9 other stores. What stores other than Naples and Genesee that
10 you picked up?

11 A. Like besides stores in Naples? Like you mean here in
12 Buffalo?

13 Q. Correct.

14 A. I've worked at Sheridan Bailey, I've worked at Delaware,
15 Chippewa, worked at Elwood, I've worked at Transits, worked at,
16 French and Transit. A lot of -- a lot of them. There's
17 probably more than I'm missing.

18 Q. Right. And, and in those stores where you've picked up
19 shifts, how do you know what type of discipline was issued to
20 particular partners in those stores?

21 A. Of course, I'm not aware of everything that happens in
22 stores where it's not my home store, but any conversation that
23 I've had with other store partners, it's been the same like
24 concept that there's a six month probationary period
25 discipline.

1 I'm not arguing what the sentence on the paper says.
2 I'm just saying that it doesn't align with what my experience
3 has been working with Starbucks.

4 Q. Now let's talk about the six month probationary, where in
5 the partner guide is it ever representing about a probationary
6 period?

7 A. It's not, I've never seen the policy in writing. I'm just
8 explaining the -- it's always been a verbal, this is how we've
9 practiced it and how I've been, had it explained to me, how
10 it's been explained to other partners at my store. If I've
11 ever asked another person, they're like, it's a six month
12 period. It's just a known practice. I'm not -- I've never
13 seen anybody myself, because I'm not a store manager, so I
14 wouldn't have access to all the personnel things and all that
15 information, but it's just always what I've been told.

16 MR. BALSAM: I move to evidence RX-10.

17 MR. GOODE: Objection, Your Honor.

18 JUDGE RINGLER: Okay.

19 MR. HAYES: We're going to join that Objection, Your
20 Honor. It, it doesn't say what counsel said.

21 JUDGE RINGLER: It says, well, it says what it says.
22 Right. So I'm going to admit R-10.

23 (Respondent's Exhibit R-10 admitted into evidence.)

24 JUDGE RINGLER: And I -- I think that once counsel
25 for the General Counsel asked the witness, Hey, your experience

1 is expunged after six months. Yes, it's certainly fair again
2 for them to start demonstrating that, no, you got a form in
3 2017 that says it's something different.

4 And now it's a question of fact for me to figure out.
5 I mean, it's possible there's a -- a written policy and that
6 rules a day. It's possible that things, you know, I might
7 credit statements that were made that are different than the
8 policy. I don't know, but it's certainly fair to put it in so,
9 so.

10 MR. HAYES: So -- so, Judge, can I just clarify, are
11 you admitting it only for the purpose of showing that she
12 received a piece of paper with that sentence on it in 2017?

13 JUDGE RINGLER: No. No, I'm not, I'm not suggesting
14 that at all. It's relevance. It might be broader than that.
15 So, counsel, let me ask you this, just to cut to the chase a
16 little bit, does Starbucks have a written policy that talks
17 about expungement or is this -- is this pretty much your
18 perspective?

19 MR. BALSAM: No, from, from Starbucks perspective of
20 it the Union is making this concept up. It's never been a
21 practice of Starbucks.

22 JUDGE RINGLER: Okay. But my question is really, is
23 Starbucks silent on the expungement issue or is there an
24 employment policy that says that, you know, discipline will
25 stain your personnel file, you know, as long as you work here,

1 MR. BALSAM: Judge, I just read you. I think it's --

2 JUDGE RINGLER: That's it. So that's basically the
3 policy. I'm just asking if there's something else maybe in the
4 partner guide or something like that?

5 MR. BALSAM: No.

6 JUDGE RINGLER: Okay.

7 MR. BALSAM: I mean, discipline is discussed in the
8 partner guide, but again, with respect to whether this notion
9 that --

10 JUDGE RINGLER: It drops.

11 MR. BALSAM: Corrective action drops off and is never
12 considered not reality.

13 MR. GOODE: Judge may I, may I just respond.

14 JUDGE RINGLER: Yeah. The not reality part is just
15 his perspective on --

16 MR. BALSAM: The witness will testify that when we do
17 our case chief, so.

18 JUDGE RINGLER: Right.

19 MR. BALSAM: These witnesses can testify to what they
20 believe the policy is, I'm presenting documentation that refute
21 that.

22 JUDGE RINGLER: Understood. Understood. And I -- I
23 allowed that in very, very quickly, very quickly.

24 MR. GOODE: Well, I -- I will note and I -- I'm happy
25 to pull this. There's doc, there is testimonial evidence from

1 Respondent's witnesses in Buffalo 1 that will discount what
2 counsel is representing at this moment.

3 JUDGE RINGLER: Okay.

4 MR. GOODE: So I -- I, this is, this kind of goes
5 back to, well, our -- our belief that that record is relevant
6 to this case, Judge.

7 JUDGE RINGLER: Certainly. So if, if that witness is
8 called and you want to confront them with a sworn statement
9 under oath that you said X and Y Z, yes. I certainly wouldn't
10 you stopping from doing that. So, okay.

11 MR. BALSAM: I believe the rules of evidence will
12 allow that.

13 JUDGE RINGLER: Yeah, of course.

14 BY MR. BALSAM:

15 Q. Ms. Rizzo, isn't it true that prior to the commencement of
16 the organizing campaign in Buffalo, New York. You were in fact
17 written up in Buffalo, New York for time in attendance issues?

18 A. Yeah, like this one.

19 Q. Oh, that one's good. Yeah, like that one. In addition to
20 that, there was multiple other time in attendance issues that
21 you had?

22 A. Again, I wouldn't know the exact number or severity or
23 anything but I'm not denying that it was given or not. It's
24 been a long time.

25 Q. Ms. Rizzo, you've been handed RX number 11. Do you

1 recognize number 11?

2 A. I do. This was in regards to, I actually got in trouble
3 for staying at work on a day that I wasn't scheduled. This
4 wasn't me being late to work. This was a situation where I had
5 come in and there was a -- a miscommunication with my store
6 manager at the time.

7 We had had a phone conversation where she had asked
8 me if I could come in on one day to work and I said, yes. I
9 came in on that day and I wasn't on the schedule, but I -- she
10 had told me that date over the phone and so I stayed in work.
11 And then I was, I -- she told me that -- she told me a
12 different day than she did, and there was just a
13 miscommunication about what day I was actually supposed to go
14 in to that --

15 (Respondent's Exhibit 11 identified.)

16 JUDGE RINGLER: So let me stop you for a second. So
17 I don't want to get into all of the underlying facts of all
18 these other attending disciplines --

19 MR. BALSAM: It's not responsive to my question,
20 Judge.

21 JUDGE RINGLER: But if you want to offer, this is the
22 last one that I'll allow in of showing the earlier statement on
23 the disciplinary form. I -- I'll let you do that.

24 MR. BALSAM: Judge, it's important to point out the
25 fact that a lot of these partners before you about how

1 Starbucks targeted them because of their Union support for this
2 particular witness there's multiple instances of this witness
3 receiving corrective actions for the same or similar conduct
4 that she received the final warning about that we just talked
5 about. And so it shows that there's -- it goes to the idea
6 that there's no Union unanimous here, right? Because this
7 witness is subject to the same type of discipline --

8 JUDGE RINGLER: You're almost making like a disparate
9 treatment.

10 MR. BALSAM: Correct.

11 JUDGE RINGLER: With respect to this particular
12 witness pre and post. Okay.

13 MR. GOODE: I -- I -- I just, I just want to note for
14 the record, again, I object that this document is not the basis
15 for the point warning.

16 JUDGE RINGLER: Understood. And he's not offering it
17 for that. He's not offering for that basis. He's offering to
18 demonstrate that, hey, you know what? It's not disparate
19 treatment cause pro-Union activity. We also discipline this
20 particular witness for attending stuff. So -- okay. I -- I
21 see your point. I'm not sure if it's going to carry the day.
22 It may or may not, but I think it's a very valid point. So
23 I'll -- I'll allow you to continue. Go ahead. Thank you for
24 pointing that out. I didn't realize that too. You were
25 getting at.

1 MR. BALSAM: I appreciate Judge

2 BY MR. BALSAM:

3 Q. Ms. Rizzo, I'm going to point out that top here at the --
4 in the box. This written documentation points discussed,
5 Alexi's attendance, you see that?

6 A. Yeah.

7 Q. So -- so at the -- so from at least the manager's
8 perspective, with respect to this particular corrective action
9 form, commission received a written warning that manager viewed
10 as an attendance issue?

11 MR. GOODE: Objection. The document speaks for
12 itself, and this witness cannot testify to the manager's
13 intentions, Judge.

14 MR. BALSAM: But based on the statement itself, the -
15 - the witness who acknowledged, received, and read it at the
16 time that she received it, would've read that and acknowledged
17 that that's what the manager wrote.

18 MR. GOODE: Okay. The document speaks for itself,
19 Judge.

20 JUDGE RINGLER: Okay. I'll allow the question. You
21 can answer. Go ahead.

22 BY MR. BALSAM:

23 A. I disagree.

24 JUDGE RINGLER: Do you want it to --

25 BY MR. BALSAM:

1 A. I -- I didn't agree with receiving this at the time. I
2 remember this happening and this was a misunderstanding and it
3 also wasn't involving me being late to work. So, yeah. At the
4 time, I didn't agree with receiving this warning.

5 MR. BALSAM: Excuse me.

6 JUDGE RINGLER: Yes.

7 MR. BALSAM: I just had a glitch. Glitch there, but
8 I think it's back on. It's okay.

9 JUDGE RINGLER: You're fine.

10 MR. BALSAM: Yeah. Excuse me. Okay.

11 JUDGE RINGLER: Okay, you're fine. Go ahead. Now, I
12 don't think you offered R-11.

13 MR. BALSAM: I move -- I thought we did. There was
14 objections about that, but --

15 JUDGE RINGLER: No, no you did not yet. Any -- your
16 objections are noted for the record? Same objection.

17 MR. GOODE: Same objection. Thank you, Judge.

18 JUDGE RINGLER: I'm going to admit R-11.

19 Mr. Hayes, same objection from you as well? Okay. All right.
20 Admitted on that.

21 (Respondent's Exhibit R-11 admitted into evidence.)

22 MR. BALSAM: Okay. Thank you.

23 BY MR. BALSAM:

24 Q. Ms. Rizzo, you've been handed what's been marked as R-12.
25 Do you recognize R-12?

1 A. Yes.

2 Q. What is R-12?

3 A. This was a documented coaching given to me by Chris Wright
4 in 2020, in June.

5 (Respondent's Exhibit 12 identified.)

6 Q. And remind me, who was Chris Wright?

7 A. He was my store manager at the time.

8 Q. And is that, when did Chris Wright, to your recollection,
9 become the store manager at the Genesee Street store?

10 A. I can't remember the exact year that he started, he left
11 the company in summer -- 2021 summer. I don't remember when he
12 started. He was there for few years though.

13 Q. And did Chris Wright become the manager of the Genesee
14 Street store after Kara?

15 A. I think it went from Kara to David Almond and then Chris
16 Wright. Yes, that's -- yeah, that's, David, Chris and then
17 Chris.

18 Q. In -- in 2020 when the R-12 was issued to you, was Chris
19 Wright the only manager at the Genesee store?

20 A. I believe so, yeah. We didn't have an ASM.

21 Q. And Ms. Rizzo, this particular corrective action to which
22 you received a document to coaching is for time attendance
23 issues, correct?

24 A. Correct.

25 Q. And this time attendance corrective action form that was

1 issued to you, predated the Union, correct?

2 A. Correct.

3 Q. And the same statement that was reflected in the previous
4 document that I showed you, that reminds you as a partner that
5 this document has maintained in your partner file

6 MR. GOODE: Objection.

7 BY MR. BALSAM:

8 Q. on this document as well, correct?

9 MR. GOODE: Objection. The document speaks for
10 itself.

11 JUDGE RINGLER: Overruled.

12 BY MR. BALSAM:

13 A. It does, but I would also like to note that this is a
14 lower level of discipline than the one I received before which
15 supports what I'm saying that after six months you would go
16 back down to getting a documented coaching. So the level of
17 discipline that I received in 2018 was a written warning and if
18 what you're saying is correct then this one should have been
19 final since I was late again. But that's again like the
20 practice of Starbucks that I've always known as since two years
21 passed in between, I was taken back down to a documented
22 coaching because I've been in good standing with the company
23 for the two years.

24 Q. But Ms. Rizzo, is it true that you just testified to the
25 fact that you had different managers, who were evaluating your

1 performance between the 2018 corrective action that we just
2 talked about, what you said had nothing to do with time and
3 attendance and the 2020 corrective action we're talking about
4 here?

5 MR. GOODE: Objection, Judge. The -- the counsel
6 said, may explicit --

7 JUDGE RINGLER: I'll sustain. I'll sustain.

8 MR. GOODE: Thank you.

9 JUDGE RINGLER: When was the -- what was the basis of
10 this objection?

11 MR. GOODE: Counsel made an explicit statement that
12 Starbucks doesn't maintain any of these policies. So the fact
13 that there's a different manager involved is not relevant.

14 JUDGE RINGLER: I -- I'll sustain the objection. I
15 mean, I will, I'll admit, I'll admit R-12 as well.

16 (Respondent's Exhibit R-12 admitted into evidence.)

17 JUDGE RINGLER: And I -- I will, just make mention of
18 this. It's an important issue. I mean, this kind of cuts two
19 ways, right? So on the one hand, I've got this statement going
20 forward, this is going to be included, but our witness made
21 stellar point saying that, look, you know, you knocked me down
22 to a documented coaching on this one, and I was previously at a
23 written, you know, had, had the policy been, as you're
24 suggesting, counsel, I would've been the final written on this
25 one. So I'm just saying that's an issue for, for briefing.

1 But I'm --

2 MR. BALSAM: You're discounting the second part of
3 that sentence. It says, there's no guarantee that you
4 receiving minimum a number of warnings prior to separation.

5 JUDGE RINGLER: Right. So sometimes yeah, sometimes
6 you get elevated, sometimes you don't, is what you're saying.

7 MR. BALSAM: Right.

8 THE WITNESS: Okay. That's, that's --

9 JUDGE RINGLER: There's no question.

10 THE WITNESS: Oh yeah, sorry. But so okay, let's,
11 let's --

12 MR. BALSAM: Can I move in R-12?

13 MR. BALSAM: Yes.

14 JUDGE RINGLER: I admitted R-12. I did.

15 BY MR. BALSAM:

16 Q. Ms. Rizzo, I've handed you what is marked as RX-13. Do
17 you recognize RX -- RX-13?

18 A. I do. I'm just reading over it really quickly. Yes I do.

19 Q. Okay. And this is a corrective action form that was
20 issued to you for time and attendance corrective actions,
21 correct?

22 A. Correct.

23 (Respondent's Exhibit 13 identified.)

24 Q. And this corrective action is written warning, correct?

25 A. Yes, it is.

1 Q. Issued by Chris Wright, Chris had issued you coaching for
2 similar corrective actions, correct?

3 A. Correct. Yes.

4 Q. Is that your signature on the bottom of the corner of R-
5 13?

6 A. It is.

7 Q. And this document -- this written warning prior to the
8 commencement of the organizing campaign in in Buffalo, New
9 York, correct?

10 A. I'm just looking for the date. Yeah. Right before.

11 MR. BALSAM: I'd like to move into evidence R-13.

12 JUDGE RINGLER: Same objection. I take it.

13 MR. GOODE: Same objection.

14 JUDGE RINGLER: So R-13 admitted.

15 (Respondent's Exhibit R-13 admitted into evidence.)

16 BY MR. BALSAM:

17 Q. Ms. Rizzo, you've been handed what has been marked as RX-
18 14. Do you recognize RX-14?

19 A. I don't actually.

20 Q. Ms. Rizzo, is that your signature on the bottom left hand
21 corner of RX-14?

22 A. It is. I just -- I'm confused. I thought that this was
23 delivered to me by a different member of management.

24 Q. Ms. Rizzo, the question is -- is that your signature on
25 the bottom left hand corner of RX-14?

1 A. Yes.

2 Q. It's -- and based on this document, you were disciplined
3 and issued a written warning for conduct attendance issues,
4 correct?

5 A. Yes.

6 Q. And that this document was created on August 16th, 21,
7 correct?

8 A. Yes.

9 Q. And this document was issued to you by Chris Wright,
10 correct?

11 A. It was.

12 Q. Chris Wright is the same manager who issued you two prior
13 corrective actions, one on June 4th, 2020 and 5/22/21, correct?

14 A. Yes. June? Yes. June 4th.

15 Q. Now is August 16th, '21, six months later, June 4th?

16 A. It is not -- oh, I don't know. I'm bad at math. No, it's
17 not.

18 Q. It's not?

19 A. No, it's not.

20 Q. So you're telling me that --

21 A. Wait June May --

22 JUDGE RINGLER: So June 4th, 2020 is one year plus

23 THE WITNESS: Oh, I thought you were asking --

24 JUDGE RINGLER: One year and --

25 THE WITNESS: Yeah.

1 JUDGE RINGLER: Approximately two plus months.

2 THE WITNESS: May 22nd, 2020.

3 BY MR. BALSAM:

4 A. So yes, it is more than six months after June 4th.

5 Q. Okay.

6 A. But not after May 22nd.

7 Q. And Ms. Rizzo, I thought that Chris Wright told you that
8 after six months, discipline dropped off your file?

9 A. Yeah. Rather it dropped down to like the next lowest
10 thing.

11 Q. But why then did Mr. Wright reference your two prior
12 disciplines if there were not supposed to be considered?

13 A. I am also noting that he didn't put me on the final
14 written warning. He just put me on another written warning.
15 So I'm not sure.

16 MR. BALSAM: And Ms. Rizzo. I move to strike. Non
17 responsive to the question.

18 MR. GOODE: I'll object. She answered the question.
19 Yeah.

20 JUDGE RINGLER: No, I think she answered your
21 question. Maybe not the way you wanted, but I think she
22 answered it. So we'll leave it.

23 BY MR. BALSAM:

24 A. That would be how I would interpret that policy being
25 applied is that I was not placed on a final warning. I was

1 just placed on another written warning. It's a large amount of
2 time since the last.

3 Q. So now it's your interpretation of the policy, not what
4 you're actually told about this civil policy that talks about
5 dropping corrective actions from file?

6 A. I'm, I'm sorry, what is the actual question?

7 Q. This particular corrective action was issued to you more
8 than six months after Chris Wright issued you a corrective
9 action on June 4th, '20, correct?

10 A. Correct. Yes.

11 Q. And in this document, Chris re references a prior
12 corrective action was issued you more than six months, correct?

13 A. Yes. He makes reference to it.

14 Q. Okay. And then you testified that you interpreted the
15 fact that you were not issued more than a written warning at
16 this point in time, to suggest that Starbucks did in fact, have
17 a policy that they didn't use or use corrective actions prior
18 to six months?

19 A. Yeah.

20 Q. I just want to make sure I understand your testimony.

21 A. Yes. Yeah. So since I wasn't escalated to the next
22 level, the same thing can be seen on my written warning that
23 was discussed in the last trial where it had been a large
24 amount of time. I was not placed on a final, I was just placed
25 on a written warning.

1 Q. But again --

2 A. So if I'm not aware of what actually happens to the pieces
3 of paper that are in our personnel file, I'm just aware of the
4 fact that my store managers have never used things that are
5 that old against you in terms of escalating into the next level
6 of discipline. But I wouldn't be aware of all the anything,
7 you know, that's not in my job description. I don't, I can
8 only speak to what my store managers have told me and what's
9 been practiced.

10 Q. Ms. Rizzo, where does it say that Starbucks has an
11 obligation to elevate to a final written warning from a written
12 warning using your theory?

13 MR. GOODE: Your Honor, I object, at this point, this
14 is as asked answered, she's explained her testimony multiple
15 times.

16 MR. BALSAM: This witness has testified that she
17 knows for sure that by virtue of the fact that they didn't give
18 her something more than a written warning, that that confirms
19 her theory that this --

20 JUDGE RINGLER: Yeah, but you asked her where does it
21 state that? And you're, you're telling me that there's no such
22 policy that states that, so I don't think it's getting this
23 anymore.

24 MR. BALSAM: I disagree, judge, but I'll, I will
25 respect your decision.

1 JUDGE RINGLER: Okay, all right.

2 BY MR. BALSAM:

3 Q. Ms. Rizzo, I'm just directing your attention R-14. Again,
4 that center part that says there is no guarantee that you
5 receive a minimum number of warnings prior to separation or
6 that corrective actions will occur in any set matter, do you
7 see that?

8 A. I do.

9 (Respondent's Exhibit 14 identified.)

10 MR. BALSAM: Judge, can I move in R-14 into evidence?

11 JUDGE RINGLER: Yes. R-14 admitted.

12 (Respondent's Exhibit R-14 admitted into evidence.)

13 JUDGE RINGLER: Same objection. Noted for the
14 record. All right, next question.

15 BY MR. BALSAM:

16 Q. Mr. Rizzo, I'm showing you what's been marked as RX-15,
17 do you recognize RX-15?

18 A. I do.

19 Q. And what is RX-15?

20 A. This was a written warning that was delivered to me by, I
21 knew her as MK. She was our acting district manager at the
22 time after the Union campaign started.

23 Q. Okay. And RX-15 is a corrective action written warning,
24 corrective action issued to you for time attendance issues as
25 well?

1 A. Yes.

2 Q. And this was issued on September 20th, 2021?

3 A. It was not, that was the date that it was created, but I
4 didn't receive it until I believe the 24th.

5 Q. Okay. And at the bottom corner, that is your signature?

6 A. Yes.

7 Q. And the partner statement what does it say?

8 A. It says that --

9 MR. GOODE: Objection, Judge. We're reading a
10 document that's already in -- it's not -- not in evidence
11 number one.

12 JUDGE RINGLER: But certainly appropriate. Do you
13 want to, do you want to offer R-15?

14 MR. BALSAM: I just want to authenticate that this is
15 the document that this witness did in fact receive.

16 (Respondent's Exhibit 15 identified.)

17 JUDGE RINGLER: I think she acknowledged she signed
18 it on the -- the 24th and received it. So if you want to offer
19 it at this point that's appropriate. And then if you want to
20 then ask her something that the document states that's fine.

21 MR. BALSAM: Okay. I'd like move the evidence R-15.

22 JUDGE RINGLER: All right. Objection noted for the
23 record, I'm going to admit R-15.

24 (Respondent's Exhibit R-15 admitted into evidence.)

25 BY MR. BALSAM:

1 Q. RX-15 which has just been introduced into evidence in the
2 middle part. What is -- what did you do right there?

3 A. I wrote, I own this, which is me taking responsibility for
4 the fact that I made a mistake and was late.

5 Q. So, Ms. Rizzo, I want to draw your attention to GC Exhibit
6 number 8, which is the follow up the warning that was issued to
7 you?

8 A. Yes.

9 Q. You testified that you were late because you had
10 migraines?

11 A. The night before, yeah.

12 Q. Did you ever seek for accommodation for your migraines?

13 A. I -- I didn't seek accommodation for my migraines. I
14 also, sorry, Tim. I -- I had a hysterectomy last year.

15 MR. BALSAM: Judge, move to strike as nonresponsive.
16 The question is did you seek --

17 JUDGE RINGLER: She, she's clarifying your question
18 in relation to whether or not she has a medical condition by
19 explaining this, I think that's perfectly appropriate.

20 MR. BALSAM: Judge, that's not my question. My
21 question was did you seek an accommodation for your migraines,
22 she could have said no.

23 JUDGE RINGLER: Right. I'm going to allow this
24 testimony. I think it clarifies the record. So, go ahead.

25 BY MR. BALSAM:

1 A. Sorry. The migraines were also a symptom of the
2 medication I had to take from endometriosis, which was many of
3 this, it's relevant to a lot of these. My previous managers
4 were always very understanding of like chronic pain. I have a
5 lot of hospital visits, things like that, and I had sought
6 accommodations for that.

7 So it's called, kind of been the overarching thing.
8 I actually spoke with MK about receiving accommodations for
9 that during this conversation too. But the company never
10 provided me with any that were considered workable for like my
11 conditions.

12 Q. So to clarify, Ms. Rizzo, you never, you never actually
13 sought an accommodation from Starbucks with respect to your
14 migrants, correct?

15 A. I did and didn't. It wasn't specifically just that it was
16 like my chronic health issues overall, but that was part of it.
17 So yes and no.

18 Q. Did you ever submit any paperwork seeking a specific
19 accommodation from Starbucks?

20 A. No. I was told on the phone by the department of resource
21 center that there --

22 MR. BALSAM: Objection, no response. Move to strike.

23 THE WITNESS: Okay, no.

24 JUDGE RINGLER: Okay. Sustained. So your answer was
25 no?

1 THE WITNESS: Yeah.

2 JUDGE RINGLER: Correct. Okay.

3 BY MR. BALSAM:

4 Q. Okay. Now with respect to corrective action for the final
5 written warning that you were issued, you say you did not work
6 on August 29th, 22, correct?

7 A. I did not, no.

8 Q. And you said you did work on August 28th of 22?

9 A. That was the date that I was scheduled. If I may, I think
10 the -- the warning was intending to reference the day before
11 and there was a mistake made.

12 Q. So you acknowledge that on a date that's on or about
13 August 29th, 22, that you were in fact late to work and
14 therefore written warning was offered?

15 A. It was the day prior. It would've been, but my store
16 manager's responsibility would've been to go and open the store
17 if I wasn't there.

18 MR. GOODE: Objection, move to strike non-responsive.

19 JUDGE RINGLER: Sustained.

20 BY MR. BALSAM:

21 Q. If Ms. Rizzo on the bottom left corner, you did sign this
22 corrective action form, correct?

23 A. I did.

24 Q. Okay. And then in signing that you agree that your
25 manager discussed this with you, correct?

1 A. Yeah. Like acknowledges that I received the form.

2 Q. Did you read the form when you signed it?

3 A. I -- I did. I was very emotional, so I just kind of
4 skimmed over it. I did

5 Q. Did you read, correct?

6 A. Yeah. Not as early as I'm sure though.

7 Q. Okay. Okay. And then in the partner statement, you can,
8 I think it's, I own this, my bad.

9 A. Yeah. I was -- sorry, go ahead.

10 Q. That's correct?

11 A. Yes.

12 Q. Okay. So at least at this point in time by signing this
13 document, you acknowledged that you had engaged in the conduct
14 by which you received the corrective action form, correct?

15 A. Yes. I acknowledged the conduct, but not the level of
16 discipline.

17 Q. And in this particular final written warning that was
18 issued by Julie Wrobel, when did she become your manager?

19 A. We don't know the exact date, but she became our manager
20 it was sometime after the Union campaign had launched in like
21 2021, maybe in the winter-ish, I don't know the exact time.

22 Q. And was she the manager directly after Chris Wright?

23 A. No. There was -- we had like several support managers
24 from all over the country in between. It was very confusing
25 that period of time.

1 Q. On the day in question in which you failed to show up for
2 your scheduled shift, which you testified was August 28th.

3 Were you the only key holder that morning?

4 A. I think I was the only key holder that was scheduled to be
5 there at 4:30. Yeah.

6 Q. And when you failed to show up as scheduled, the other
7 partners couldn't enter the store, correct?

8 A. Correct.

9 Q. And in fact, the store didn't open until it was later that
10 day, correct?

11 A. That is correct, but that's -- I would hesitate to say
12 that that's my fault.

13 Q. Why wasn't it your fault if you were the key holder who
14 was supposed to open the store that day?

15 A. Because the responsibility of the store manager is to
16 provide coverage to the store. In the event that a shift
17 supervisor is sick or is' in an accident or whatever it may be,
18 the store manager always would go in and open the store, and
19 like, so the partners could work and the store could be open.

20 Q. So your testimony, your testimony as you sit here right
21 now, is that on every single day that the store manager is in
22 the store with you when you were shift supervisor?

23 A. That's not at all that I said. No.

24 Q. So why -- how would be your, the store manager's
25 responsibility if your responsibility was to open the store for

1 them to open the store if they weren't there every day?

2 A. Because even if they're not necessarily on the schedule
3 for that day, if there's like an emergency, a sickness,
4 something that comes up, the store manager would go and provide
5 coverage to the store if they couldn't find another key holder
6 to do so.

7 Q. But in this particular situation, this particular day, how
8 would Julie Wrobel have known that you were late until you were
9 late?

10 A. My baristas would've called and let her know, and then she
11 could have, or would have driven to the store and opened a
12 little bit late. I'm not arguing that, I was just arguing that
13 it's not my fault the store didn't open until 12:00 o'clock.

14 Q. But it's your fault the store didn't open?

15 A. Yeah. I -- I'm absolutely taking accountability for the
16 fact that I made a mistake, but it was not intentional.

17 Q. But it was still a violation of Starbucks policy, correct?

18 A. Yeah. I'm not arguing that.

19 Q. And it's your contention that the store manager is
20 effectively on call that if they're alerted that somebody's not
21 there is key holder that they need to come in and open the
22 store, that's what you're saying?

23 A. Correct, yeah.

24 Q. Okay.

25 A. That would be in her job description since she's like a

1 salaried employee, or at least that's always been the way it's
2 happened in all my other years.

3 Q. Okay. Ms. Rizzo, do you know what Julie Wrobel was doing
4 on the day on August 28, '22?

5 A. No, I have no idea.

6 Q. Do you know where Julie Wrobel was on that given day, on
7 that day?

8 A. No, I don't.

9 Q. Do you know if Julie Wrobel was in the position to come
10 and open the store when you did not open the store at time?

11 A. No, I wouldn't be like privy to what she does on like her
12 days off because she usually doesn't work the weekends.

13 Q. So -- so it's possible that Julie Wrobel was not in the
14 position to open the store and in fact, the reason why the
15 store didn't open until fault was in fact your fault, not Julie
16 Wrobel's fault?

17 MR. HAYES: Objection.

18 MR. GOODE: Objection, Your Honor.

19 JUDGE RINGLER: Overruled. You can answer.

20 BY MR. BALSAM:

21 A. That's not my responsibility as a shift supervisor to
22 ensure that there's coverage for my location all the time
23 during all the business hours of operation. That's my store
24 manager's responsibility, so I wouldn't agree with that. No.

25 Q. But if the shift supervisors and the baristas were

1 supposed to be at work on time are not on time, and the store
2 managers was off on that particular day, you would agree it's
3 not possible for the store manager to make appropriate
4 arrangements to get everyone placed the proper way in order to
5 open the store within, within the time frame?

6 A. I wouldn't agree that's not consistent with how other
7 store managers have done things.

8 Q. I'm not asking about other store managers. I'm asking
9 about your store manager?

10 JUDGE RINGLER: Well, she's saying she doesn't agree
11 she said no. I don't know.

12 MR. BALSAM: Okay. Fine.

13 BY MR. BALSAM:

14 Q. You testified earlier about a series of individuals who
15 failed to show up on time, causing stores not to open or people
16 not to open on time because of Starbucks policy requiring at
17 least two people open store, correct? The other individual you
18 mentioned, were they shift supervisors or baristas?

19 A. Both. Some were shift supervisors, some were baristas.

20 Q. Who were the shift supervisors?

21 A. We have Harriet Hernandez, Danka Dragic, Patricia Ula.
22 There was a lot of other shifts that are no longer with the
23 company that I've worked with too, that have had the same thing
24 happen.

25 Q. And individually, you mentioned there were shift

1 supervisors. Do you know whether or not they were issued
2 disciplined for not showing up on time?

3 A. I do. They were not disciplined.

4 Q. You know that how?

5 A. From speaking with them. The only other, I'm sorry, I
6 don't know.

7 Q. Were they, were they the sole shift supervisors that were
8 responsible for opening a store that time?

9 A. Yes. They would've been.

10 Q. Do you know if there were store managers who were also
11 present that would've been able to open the store with those
12 individuals?

13 A. I wouldn't know because I wasn't there say specifically.

14 Q. And those individuals who you mentioned were baristas not
15 just who were shift supervisors, do you know if they had prior
16 discipline when they failed to open a store on time?

17 A. I know for Danka and Patty, but that's the case. For
18 Harriet, I don't think she's ever received any discipline.

19 Q. For Danka, I believe you referred to Dragic?

20 A. Yes.

21 Q. What type of discipline did you have prior to failing to
22 open the store on time?

23 A. Time and attendance. Really good things from the past is
24 I believe you testified that Danka and yourself were at the
25 same location, correct?

1 A. Correct.

2 Q. You testified with respect to utilizing headsets to
3 communicate, I believe you said about dating?

4 A. Oh, yeah.

5 Q. Did you talk about your dating life on those assets?

6 A. Definitely over the years.

7 Q. Did anyone at any point in time while you were talking
8 about dating, ever ask you to stop talking about it because it
9 made them feel uncomfortable?

10 A. No. We're close enough that it, that ever happened they
11 feel comfortable talking to me about it.

12 Q. Were you ever subject equity -- I'm sorry, ethics and
13 compliance complaint for things you said on the headset.

14 A. No.

15 Q. Now referring back to GC Exhibit number 9, which is the
16 American Foundation for Suicide Prevention, Prevention?

17 A. I believe so.

18 Q. Okay. You testified that you wore this pin on your apron
19 for multiple weeks after when Will Westlaker was separated,
20 correct?

21 A. It was around that period of time, like I said, with the
22 exact dates of body for me, I don't want to say exactly when,
23 but it was near that period of time. That's what incited me to
24 start growing up, was when I realized what was happening to
25 Will.

1 Q. And at the time that you wore that pin at Starbucks during
2 your shifts who, who was your store manager at that time?

3 A. Julie Wrobel.

4 Q. Julie Wrobel, present on the days in which you wore that
5 pin?

6 A. Sometimes. Yeah.

7 Q. How -- about how many times did she -- was she present
8 when you wore that pin?

9 A. I would usually work with her like three of my five days a
10 week.

11 Q. And then you testified I don't think you testified to the
12 date, but on some date, district manager Tiffany Mane
13 (phonetic) came into the store and saw you wearing that,
14 correct? And on the day that she saw you wearing the pin, she
15 told you to take it off?

16 A. She did.

17 Q. Did she tell you why?

18 A. Yes, she told me that it wasn't a Starbucks approved pin
19 and that I wasn't permitted to wear it. That I could only have
20 my Starbucks pins and then my one pin supporting like a labor
21 organization if I chose. Because that pin wasn't like a
22 Starbucks approved pin.

23 Q. And what did you do? And I believe you testified that
24 when she told you to do that, you stopped wearing that pin,
25 correct?

1 A. I did. I actually cried a bit and then went in the back
2 and took it off.

3 MR. BALSAM: Objection, nonresponsive, move to strike
4 crying a bit.

5 JUDGE RINGLER: Sustained.

6 THE WITNESS: I -- yeah, I did.

7 JUDGE RINGLER: I'll sustain that portion of it.

8 BY MR. BALSAM:

9 Q. Did you -- did you ever wear that pin again?

10 A. Not at work, no.

11 Q. Okay. And you didn't wear that pin again because your
12 district manager told you that it was a violation of policy,
13 correct?

14 A. Correct. I was afraid of being discipline.

15 Q. Because it was a violation of services policy, correct?

16 A. No, for many years I've been wearing a variety of pins on
17 my apron for my whole career. Like from, everything from like
18 the meme of like Kermit sipping tea to like the meme of sponge
19 pop doing thing, like all sorts of pins.

20 I have like a coffee pop skull in it. Like my aprons
21 covered in pins that weren't Starbucks approved. It was never
22 an issue, but I knew that since the beginning of the Union
23 campaign, the cracking down the dress code that I would
24 probably get in trouble.

25 MR. BALSAM: Objection, move to strike. It's not

1 responsive.

2 THE WITNESS: So I actually stopped wearing it.

3 JUDGE RINGLER: It's responsive. I -- I think it is
4 responsive.

5 MR. GOODE: It is responsive. It is.

6 MR. BALSAM: It's, the question was why did you not
7 wear it after your, your DM told you to stop wearing it?

8 JUDGE RINGLER: I -- I think the question was more
9 about the history of whether you asked her that violate
10 Starbucks policy, right? And she said no, and she explained.
11 So I think it, I think it is appropriate. So I'm going to
12 leave.

13 MR. BALSAM: Okay.

14 BY MR. BALSAM:

15 A. Sorry, I, think that was all --

16 Q. To clarify that we never wore the pin after you were --

17 A. Yes. Sorry. Switching not to wear. I didn't, I, yeah, I
18 figured I would get in trouble if I did. So I -- I agreed to
19 take it off and I didn't wear it again at work.

20 Q. And because at this point in time you had accumulated
21 multiple corrective action forms for violating Starbucks
22 policies relating to time and attendance, correct?

23 A. Not dress code, but Yes. The time and attendance.

24 Q. Time and attendance?

25 A. Yes.

1 Q. And you understood that you could in fact be further
2 disciplined for additional violations of Starbucks policy,
3 including dress code, correct?

4 A. Yeah. I was terrified of that.

5 MR. BALSAM: No further questions.

6 JUDGE RINGLER: Okay. Redirect?

7 MR. GOODE: Briefly.

8 REDIRECT EXAMINATION

9 BY MR. GOODE:

10 Q. Alexis, you started to, or you were asked about seeking an
11 accommodation, you started to talk about a phone call with
12 partner resources. Can you describe that?

13 A. Yeah, after I had this conversation with the --

14 MR. BALSAM: Objection. Irrelevant.

15 MR. GOODE: It was open --

16 MR. BALSAM: The witness just testified she did not
17 seek an accommodation.

18 THE WITNESS: Okay. I tried to.

19 JUDGE RINGLER: Well, no, no. Just allow me for a
20 moment then I'm going to let you answer. You asked her whether
21 or not she sought a written accommodation and she said no, but
22 he's now clarifying the terms of her. I suppose she's going to
23 say that she requested an oral accommodation. So -- so I'll
24 allow you to answer. Go ahead.

25 BY MR. GOODE:

1 A. The first step when you need to get an accommodation from
2 Segwick, which is like a company that is not like Starbucks,
3 you have to call partner resources and talk to someone about
4 it. So I tried to, and they had let me know that there
5 wouldn't be a reasonable accommodation for my health conditions
6 because it would be impossible for me to perform my job tasks.

7 So it's kind of, my option was to take like an
8 indefinite medical leave of absence or just keep working. So I
9 just kept working and tried to get a surgery scheduled again.

10 Q. Have in your time at Genesee Street had you experienced
11 Starbucks enforcing a policy differently than the way it
12 threatened?

13 MR. BALSAM: Objection. Vague.

14 JUDGE RINGLER: I'll sustain that. That -- that's
15 pretty open-ended. So if you want to define that, make it more
16 specific. Not to any policy, you know, that Starbucks might
17 have that wasn't enforced. That's sort of what you're asking.

18 MR. GOODE: Yeah. Well, the implication on cross
19 Judged was that we have a written policy, therefore there can
20 be no deviation from that written policy. So I'm asking the
21 witness --

22 JUDGE RINGLER: You can ask her about specific
23 deviations related to specific policies, but just in general,
24 like, I think we're going too far field.

25 BY MR. GOODE:

1 Q. What was your experience Alexis, with how the six month
2 falloff of discipline was enforced?

3 MR. BALSAM: Objection. He's using a term that's not
4 accurate.

5 JUDGE RINGLER: I'll -- I'll permit that. I think
6 that that captures what we've been talking about. So go ahead.

7 MR. BALSAM: And is she talking about her personal
8 experience or generally?

9 JUDGE RINGLER: I think she's talking about her
10 personal experience.

11 MR. BALSAM: Okay. Because if she does then I'll
12 object to --

13 JUDGE RINGLER: Understood. Go ahead. Limited to
14 your personal experience with the six month expungement, or
15 fall off, or whatever of discipline.

16 THE WITNESS: I've -- I've experienced it since I was
17 a barista. Just in terms of what my managers have told me.
18 Like this is what will happen to you if you get into trouble.

19 MR. BALSAM: Objection asked and answered, we have
20 already heard this testimony. It is cumulative.

21 JUDGE RINGLER: I'll -- I'll allow it. Go ahead.
22 Finish your answer.

23 BY MR. GOODE:

24 A. So just in my general practice of what I'm taught as a
25 barista and then once I got promoted, my store managers told me

1 this is the policy. When I received some of these corrective
2 actions, I was told specifically from my managers, like, it's
3 okay.

4 Just don't be late for six months and then it'll go
5 away. When I received one of the written warnings from Chris,
6 he told me that I was receiving just a written warning because
7 so much time had passed it. It's almost every time there's a
8 conversation about discipline or anything like that, it was
9 brought to our attention.

10 I like had many conversations with David before, who
11 was our district manager. Because he had explicitly like a
12 probationary period with the way he ran things. So there was a
13 period of time where my, like fellow shift supervisors, Danka
14 and Patricia (phonetic).

15 MR. BALSAM: Objection. The witness cannot testify
16 about what other people experienced. She was not privy to what
17 transpired. If anything, she's talking about the information
18 she was told by them. It would be hearsay.

19 JUDGE RINGLER: I'll allow it. Go ahead. You can
20 finish your answer.

21 BY MR. BALSAM:

22 A. So my fellow shift supervisors, Danka and Patricia at the
23 time I was the closing supervisor and they were the opening
24 supervisors. They had both gone through a period of time where
25 they were having a hard time getting to work on early mornings

1 and our DM came and met with us and let us know what that this
2 is how the probationary period works.

3 Like you need to do better and like go three more
4 months without getting in trouble. And then it'll be that six
5 month time and those will fall off. You won't have to worry,
6 but that was like a big anxiety reason time for them in the
7 mornings.

8 JUDGE RINGLER: So your DM, who was your DM at that
9 time?

10 THE WITNESS: His name was, David Lavoy. He left the
11 company near the beginning of the -- the Union drive. He was
12 let go.

13 JUDGE RINGLER: And when did he make the statement to
14 you?

15 THE WITNESS: That would've been in approximately
16 2020, before the Union things.

17 JUDGE RINGLER: All right counsel, we've kind of
18 painted dead horse on this.

19 MR. GOODE: I understand.

20 MR. BALSAM: Just a couple of quick follow up.

21 RECROSS EXAMINATION

22 BY MR. BALSAM:

23 Q. Alexis, do you have out -- do you control Starbucks, the
24 actual personnel files?

25 A. No.

1 Q. Do you have access to physically remove a discipline from
2 your personnel file?

3 A. No.

4 MR. BALSAM: Nothing further, Judge.

5 JUDGE RINGLER: All right, Ms. Hayes, you're fine as
6 well?

7 FURTHER REDIRECT EXAMINATION

8 BY MR. HAYES:

9 Q. Ms. Rizzo you testified that you called Sedgwick to seek
10 an accommodation. What was that?

11 A. I didn't call like Sedgwick. I called like the partner
12 resource center, Sedgwick's, like the company that handles
13 worker's complains and things like that for Starbucks. But
14 before you even get like an accommodation through Sedgwick, you
15 have to call partner resources to talk to someone.

16 Q. When did you do that?

17 A. It would've been right after I received the warning from
18 MK. So it would've been in September or October of 2022.

19 Q. And after you called partner resources concerning an
20 accommodation that you were requesting, you, you testified that
21 you were supposed to call Sedgwick after that?

22 A. No, the person, the agent or whatever from partner
23 resources let me know that there wasn't really any reasonable
24 accommodation, that they could probably provide for me because
25 with the nature of my illnesses, it just wasn't something that

1 Starbucks could contempt with.

2 The only option would've been to take me off the
3 schedule for like some unspecified amount of time every month
4 when I knew that I would be having my terrible endometriosis
5 pain. And that since it was so irregular and erratic, there
6 was just no way for them to make that happen.

7 So they let me know that I could go on just an
8 indefinite medical leave of absence or I could just try to keep
9 working, and that's, that's what I did. Because I couldn't
10 afford to not work and then I ended up getting surgery and more
11 physically healthy now.

12 Q. Now, did you ever tell Julie Wrobel that you, you had
13 migraines that prevented you from coming to work on time?

14 A. Yeah. She was aware of health problems. Yeah.

15 Q. How did she -- how did you communicate that to her?

16 A. In person.

17 JUDGE RINGLER: Ms. Rizzo, do you need to take a
18 break?

19 THE WITNESS: (No audible response.)

20 JUDGE RINGLER: You're okay?

21 THE WITNESS: (No audible response.)

22 JUDGE RINGLER: Okay.

23 THE WITNESS: Thank you.

24 JUDGE RINGLER: Yes.

25 BY MR. HAYES:

1 Q. Said in person?

2 A. Yeah.

3 Q. Did you ever seek to modify your availability to
4 accommodate your, your migraines?

5 A. I tried. It was, it was difficult with like, the period
6 of time that they last, that lasted every night.

7 Q. And just to confirm, at no point in time during your
8 employment with Starbucks did you ever issue a discipline to
9 another partner, correct?

10 A. Like in a written format?

11 Q. Correct.

12 A. No, I did not.

13 Q. Because you're not as your, your title, you're not able to
14 do that, right?

15 A. No, no. We can just like verbally coach our baristas.

16 Q. And forgive me, if I repeat this -- the DM told you that
17 about this six month period, which discipline drops off?

18 A. Yeah.

19 Q. When did David before tell you that?

20 A. It would've been in like 2020, I don't want to guess exact
21 date, but he talked about he was our district manager.

22 MR. HAYES: I have nothing else. Thank you.

23 JUDGE RINGLER: All right. Thank you. Safe to
24 assume you're set as well.

25 MR. BALSAM: No, nothing Judge.

1 JUDGE RINGLER: Mr. Hayes, you're squared away.
2 Okay. Thank you very much for your testimony. You're excused.
3 All I ask is that do not discuss your testimony with anyone.

4 THE WITNESS: Okay. Thank you.

5 MR. GOODE: Judge can I have 10 minutes.

6 JUDGE RINGLER: Yes, no, of course. That was going
7 to be my suggestion that we take 10 minute break and then we'll
8 start for your next witness at 11:10 evening. Okay?

9 MR. GOODE: Thank you.

10 JUDGE RINGLER: Thank you. All right, so we're off
11 the record for now.

12 (Brief recess at 10:59 a.m. to 11:02 a.m.)

13 JUDGE RINGLER: All right, let us go back on the
14 record. All right, so we've got our next witness on the
15 witness stand. If you could please state your name for the
16 record and spell it for us first and last?

17 THE WITNESS: Sariah Hakes, S-A-R-I-A-H. And last
18 name H-A-K-E-S.

19 JUDGE RINGLER: All right, and please raise your
20 right hand.
21 Whereupon,

22 SARIAH HAKES,
23 was called as a witness having been previously duly sworn, was
24 examined and testified as follows:

25 JUDGE RINGLER: All right, and counsel, what

1 complaint paragraphs are we talking about for Ms. Hakes?

2 MR. GOODE: Judge, it's -- it's mainly 9(J) for this
3 witness.

4 JUDGE RINGLER: 9(J). Okay.

5 MR. GOODE: This witness is also alleged in
6 paragraphs 11(O) through S but I -- I don't know if the
7 testimony will, it is just related to those Judge, but --

8 JUDGE RINGLER: Okay. Okay. Go to it.

9 DIRECT EXAMINATION

10 BY MR. GOODE:

11 Q. What are your pronouns?

12 A. She, her.

13 Q. And if you can for us, please try and just keep your voice
14 up, just a little bit of the hearing recorder?

15 A. Yeah.

16 Q. Let's make sure we can get everybody's voices. Okay. So,
17 have you worked for Starbucks?

18 A. Yes.

19 Q. When were you approximately -- when were you hired by
20 Starbucks?

21 A. Early in March last year.

22 Q. So is that 2022?

23 A. Yes.

24 MR. BALSAM: Could you ask the witness to speak up
25 because I can't hear.

1 JUDGE RINGLER: Yes. Yeah, I'm, I can hear you
2 decently, but I'm right next to you. But I think the other
3 folks are going to have a hard time, so if you could speak up,
4 we appreciate it. It's not a bad thing being soft spoken, but
5 in this context it's not as helpful.

6 THE WITNESS: Okay.

7 JUDGE RINGLER: Thank you.

8 BY MR. GOODE:

9 Q. What store were you hired at?

10 A. Williamsville Place.

11 Q. Are you currently employed by Starbucks?

12 A. No.

13 Q. Were you discharged?

14 A. Yes.

15 Q. At the time of your discharge, who was your store manager?

16 A. Disha, Disha.

17 Q. Do you know how to spell Disha's name?

18 A. D-I-S-H-A and it repeated.

19 Q. Ms. Hakes, are you familiar with Workers United?

20 A. Yes.

21 Q. How are you familiar with Workers United?

22 A. I wouldn't say I'm as familiar as like other comrades, but
23 I would say that I'm more familiar with them as an average
24 person.

25 Q. When you started working at Williamsville, was there

1 organizing activity at that store?

2 A. Not active organizing, but I know that like there was talk
3 about it.

4 Q. Okay. Did you wear any pins at work?

5 A. Yes.

6 Q. Okay. What pins did you wear?

7 A. I wore a Union pin of course, by pronouns and Heather tag.

8 Q. Can you describe the Union pin that you wore?

9 A. It was green, white, and black. And it had a fist holding
10 like a shaper bottle and it says Starbucks, which is United
11 around the -- yeah.

12 Q. Approximately how long after you started working there did
13 you start wearing that pin?

14 A. I would say within like a few weeks to a month.

15 Q. How often would you wear that pin?

16 A. Every day.

17 Q. Can you describe where you wore it?

18 A. I wore the right side of my apron.

19 Q. Did you work around managers while wearing that pin?

20 A. Every day.

21 Q. Did you talk about the Union at work?

22 A. Yes, but never when the managers were present.

23 Q. Ms. Hakes, I'm showing you what's been marked for purpose
24 of identification as GC Exhibit 10. Can you please take a look
25 at this document?

1 A. Yeah.

2 Q. Do you recognize this document?

3 A. Yeah.

4 Q. What is it?

5 A. It was the final written warning. I -- I was given in
6 early June.

7 (General Counsel's Exhibit 10 identified.)

8 Q. If you flip it over to the second page, the back?

9 A. Mm-hmm.

10 Q. Is that your signature?

11 A. Yeah.

12 Q. And what were -- did you receive this corrective action
13 for time and attendance issues?

14 A. Yes.

15 MR. GOODE: I move for the admission of GC Exhibit
16 10, Judge.

17 JUDGE RINGLER: I'm assuming no objection to 10.

18 MR. WALTERS: No objection.

19 JUDGE RINGLER: Okay. You're, you're the man on that
20 one. All right, so GC-10 is admitted.

21 (General Counsel's Exhibit GC-10 admitted into
22 evidence.)

23 BY MR. GOODE:

24 Q. So, following receipt of the corrective action that's
25 identified as GC Exhibit 10, did you make any changes?

1 A. Yes, I was very stern on making changes. I made sure I
2 would always get to work, at least 30 to 20 minutes early every
3 day.

4 Q. Did you do anything the -- the night before a shift?

5 A. Yes. Every night I would make sure I would check my app
6 for the schedule, not only for, so I know when I go on to work
7 and what time I need to get up, but also to let my ride up.

8 Q. Did you drive to work?

9 A. No.

10 Q. And checking your, your schedule the night before, did you
11 do that every day?

12 A. Yes.

13 Q. Ms. Hakes, I'm showing you what's been marked for purposes
14 of identification GC Exhibit 11. Can you take a look at this.
15 And do you recognize this document?

16 A. Yes. This is what I was given the day I was fired.

17 (General Counsel's Exhibit 11 identified.)

18 Q. Is your signature on this document?

19 A. Yes.

20 Q. Yes. Can you identify which signature is yours?

21 A. Yes. It's the one on the bottom.

22 Q. The one on top of the partner signature?

23 A. Correct.

24 MR. GOODE: Move for the admission of GC Exhibit 11.
25 Judge.

1 JUDGE RINGLER: Any objection to 11?

2 MR. WALTERS: No objection, Judge.

3 JUDGE RINGLER: All right. So 11 is admitted.

4 (General Counsel's Exhibit GC-11 admitted into
5 evidence.)

6 BY MR. GOODE:

7 Q. If I can direct your attention please to the -- the middle
8 of the notice of separation where it begins on 8/22. Do you
9 see that?

10 A. Mm-hmm.

11 Q. Were you scheduled to work on August 22nd?

12 A. Yes.

13 Q. What, if anything, did you do the night before?

14 A. Like what I normally do, I would check my app before I go
15 to bed every night and let my ride know what time we need to
16 leave.

17 Q. And why are you checking the app?

18 A. To again, ensure that I was time to work.

19 Q. Are you checking your schedule?

20 A. Yeah.

21 Q. And what, on, on August 21st, what did it show your
22 schedule shift be the following day on August 22nd?

23 A. 7:30 a.m.

24 Q. Okay, did you report to work on August 22nd?

25 A. Yes.

1 Q. Okay. Take me through, your morning, getting ready,
2 reporting to work. I mean, I got up like usual not ready. I
3 was running a little bit late for my liking. I actually got to
4 work at like 7:20, which I didn't like to do because I like to
5 go to work early so that way I'm on time if I need extra help.
6 And so that way I can get a drink.

7 I don't wake up. I got to -- but on my way to work,
8 I noticed Disha called me, but I just didn't really think
9 anything of it because again, I was like, I'm not late, so
10 like, what's going on? So I didn't really like, respond to the
11 calls because I was on my way in anyway. But I got to work
12 strolled on in like I normally do. Got my drink sat into the
13 back and was just, you know, relaxing before I had to clock in.
14 And --

15 Q. Let me stop you there, let me stop you there?

16 A. Yeah.

17 Q. Okay. When you -- where did you order your drink at?

18 A. Of the front desk in the lobby.

19 Q. Were there any managers present when you ordered your
20 drink?

21 A. I believe so, yes.

22 Q. Who would that have been?

23 A. I don't know who the shift was on, but I know that Disha
24 was in the store.

25 Q. When you were ordering your drink, did Disha say anything

1 to you?

2 A. No.

3 Q. So you, you testified that you went to the back. What
4 happened next?

5 A. I sat down, I was relaxing and then about like 7:25, 7:28,
6 she came into the back and she was like, you know, you were
7 supposed to be here at 7:00. I didn't really respond to her.
8 I just kind of got up and just hurried and got my apron on and
9 clocked in because I didn't want to debate, debate it.

10 Q. Okay. What, what if anything happened next?

11 A. I thought that it was really weird that I was told I was
12 late because again, I checked my schedule every night. So on
13 my break I went to go see if the paper schedule was posted
14 because you can't really change that. It was nowhere to be
15 found.

16 I looked in the binder, looked, I looked through the
17 office to find the schedule and it was nowhere. I had asked
18 Disha about it and she just kind of gave me a half answer. She
19 was acting really weird. She was like, oh, there was something
20 wrong with the schedule. But I just thought it was really
21 weird because it was a Monday and the schedule has to my
22 knowledge has to be posted for the remaining of the week.

23 Q. Okay. So let me just step back, briefly at Williamsville
24 Place, how are physical copies of schedules posted?

25 A. On the back of the door to the back room.

1 Q. Okay. And if you can describe in as much detail as you
2 can, if we were to be looking at the back of that door, what
3 would we see?

4 A. I believe the week prior, the current week and the next
5 week.

6 Q. Okay. Is it one week, first sheet of paper?

7 A. Yes.

8 Q. And then you mentioned the binder. What's in the binder?

9 A. It just has the previous week's schedules, and then the
10 week, like need be if someone needed to look at it.

11 Q. Okay. So when you went to go look for the physical
12 copies, what, if anything, did, did you or did you not see?

13 A. I did not see it anywhere. I looked in all the binders
14 that were on top of the desk and I even looked ahead and looked
15 in the drawers and there was nothing.

16 Q. And did you see any other schedules posted?

17 A. For the week prior. This is all the previous schedules in
18 the binder and the fall, the next upcoming week's schedule.

19 Q. Between -- so after August 22nd, or, well, let me say, but
20 strike that judge. Sorry. The rest of your shift on August
21 22nd, was there any discussion about your -- the time you
22 showed up that day?

23 A. No.

24 Q. From August 23rd until August 31st, was there any
25 discussion?

1 A. No.

2 Q. So can you please explain, where you were when you
3 received this notice of separation that's been admitted as GC
4 Exhibit 11?

5 A. I came into work early, like usual. I was sitting in the
6 back chilling. I was getting ready to clock in at 1:15, was
7 doing my pre clocking stuff with the COVID check and everything
8 with John, the shift call. And as I was clocking in, he asked,
9 he told me that Disha wanted to go talk to me, connect with me
10 in the lobby and I look over and I notice Disha was there with
11 another store manager, Scott.

12 Q. And just let the record reflect that the witness looked at
13 the -- the document, are you referencing the -- the individual
14 named Scott on your notice of separation?

15 A. Yeah.

16 Q. Do you know who Scott is?

17 A. All I know is that he's another store manager.

18 Q. Okay. So did you connect with Disha at that point?

19 A. Yeah.

20 Q. Okay. Take me through what happened?

21 A. I sat down, I instantly saw the piece of paper and I was
22 like, can I have a moment to myself? Because I already knew
23 what was going to happen, so I called my ride to come pick me
24 up again.

25 Because at that point I've been off work for like 30

1 minutes, and then I came back to the table and let them proceed
2 and they handed me this piece of paper and let me know that I
3 was separated from company.

4 Q. By signing it did you agreed to being terminated?

5 A. Yes.

6 Q. Did you agree that it was appropriate for you to be
7 terminated?

8 A. Personally, no, but I obviously signed the paper because I
9 didn't want to deal with it.

10 JUDGE RINGLER: Now at the time did you realize that
11 you were getting disciplined for coming in late on this day
12 where you thought you were supposed -- you were on time from
13 your perspective?

14 THE WITNESS: Yeah.

15 JUDGE RINGLER: Did you mention that?

16 THE WITNESS: Yes, I did.

17 JUDGE RINGLER: What'd you say?

18 THE WITNESS: I didn't say much. I was just like
19 under, I said I was under the impression that I was like on
20 time, especially because like since my last corrective action
21 form the final written warning. I had no, no problem with
22 getting on the work time, like to work time.

23 JUDGE RINGLER: May you, you've mentioned several
24 times that you call for a ride in the morning or arrange a ride
25 or can you get a ride back Cause it's like Uber or a Lyft or

1 something like that, or?

2 THE WITNESS: No, I actually lived with my sibling at
3 the time and they were giving me rides to work.

4 JUDGE RINGLER: Okay.

5 THE WITNESS: Yeah.

6 BY MR. GOODE:

7 Q. Sorry. Are you familiar with the term edited punch?

8 A. Yes.

9 Q. Okay, what does that mean to you?

10 A. I noticed, I don't know how often these edited punches
11 would occur, but I noticed over a period of time that I had
12 over like 55 edited punches in my schedule app somewhere from
13 Disha that I would recognize, like if they had me leave work
14 early or if I came into work early, so on and so forth. But a
15 lot of them were from store managers and I don't even know who
16 they're.

17 Q. And where, where specifically did you see that edited
18 punch?

19 A. In the app?

20 A. I think there was like either three lines on the top
21 right, or like a little folder on the bottom right, but it was
22 like alongside the schedule.

23 JUDGE RINGLER: Just so I understand a little more
24 clearly, what is, what is an edited punch?

25 THE WITNESS: I believe it's just them going in and

1 editing the punch that like me clock again or like times I
2 clock in, clock out. It's just them I believe editing when I
3 clocked in and clocked out.

4 JUDGE RINGLER: And how would you know that a punch
5 was edited?

6 THE WITNESS: It would notify me in that.

7 JUDGE RINGLER: Okay.

8 MR. GOODE: Okay. I have nothing further, Judge.

9 JUDGE RINGLER: All right.

10 MR. HAYES: No questions.

11 JUDGE RINGLER: Okay. Affidavit for this witness.

12 MR. GOODE: I have one affidavit that is in substance
13 about eight pages.

14 JUDGE RINGLER: Okay. So why don't we go off for 15
15 minutes.

16 MR. GOODE: Thank you.

17 JUDGE RINGLER: Go off until 11:45 and then we'll
18 reconvene with cross-examination. All right. So we're off the
19 record until that time. You are free to stretch your leg, just
20 whatever. Just don't discuss your testimony. Thank you.

21 (Brief recess at 11:28 a.m./ Reconvened at 11:45 a.m.)

22 JUDGE RINGLER: Okay, let's go back on the record and
23 counsel for Starbucks, is going to ask you questions now.

24 CROSS EXAMINATION

25 BY MR. WALTERS:

1 Q. What date were you hired?

2 A. I don't remember the exact day, but I know it was early
3 March of 2022.

4 Q. And your separation from employment was approximately five
5 months later, is that correct?

6 A. Yeah.

7 Q. Do you recall your separation date?

8 A. August 31st.

9 Q. And was the store manager, Disha, that you mentioned new
10 to the store when you were separated?

11 A. Mm-hmm.

12 Q. Is that, I'm not trying to give you a hard time, but for
13 the court report's benefited if you say yes?

14 A. Yes, I'd, yes.

15 Q. Thank you. When did you first notice what you claim were
16 edited punches?

17 A. I would say, probably in like May.

18 Q. When in May?

19 A. Oh, I can't remember off the top of my head, but I know
20 around then. When it was the time of the vote.

21 Q. Was it before or after the vote?

22 A. I can't remember.

23 Q. Do you remember if it was early May verses late May?

24 A. No.

25 Q. And what specific dates do you claim your, you saw edit

1 punches?

2 A. I don't -- don't know off the dates off my head. Because
3 there was so many.

4 Q. So sitting here today, you can't give me specific dates,
5 is that correct?

6 A. Not unless I looked in the app since it was in the app.

7 Q. And you said so many, you testified earlier there were 55.
8 Is that what your testimony?

9 A. Yes.

10 Q. Did you count those? How do you know, how did you arrive
11 with number five?

12 A. It showed me the number 55.

13 Q. Are you aware of Starbucks attendance and punctuality
14 policy?

15 A. Yes.

16 Q. And what is your understanding of it?

17 A. That they're very, they're very strict on it, and they
18 only give you so many chances to be late before you get written
19 up. With the sick one, I believe you had to call in, but also
20 bring a doctor's note if you were sick.

21 Q. And were you aware that you could be terminated for
22 failing to abide by the attendance and punctuality policy?

23 A. Yes.

24 Q. Did other partners in your store have attendance issues?

25 MR. GOODE: Objection. Not relevant to this witness.

1 MR. WALTERS: It's a statement.

2 JUDGE RINGLER: And, and counsel. That is not to say
3 that Starbucks certainly could you know, provide evidence of
4 various attendance, disciplines. Other things to demonstrate
5 that I just think through this witness.

6 MR. WALTERS: Your Honor. I guess the reason I ask
7 is if this witness has knowledge not only of other partners
8 having attendance issues in the store but also has knowledge
9 that other partners with coached disciplined or separated for
10 those attendance issues that you can go towards comparative
11 evidence based on this witness's personal knowledge that she
12 doesn't have testify to.

13 JUDGE RINGLER: Oh, I'll -- I'll allow her.

14 MR. GOODE: Judge, may I respond very briefly.

15 JUDGE RINGLER: Go ahead.

16 MR. GOODE: This witness. The -- the crux of -- of -
17 - of her -- of this allegation, Judge, is she denies that she
18 was late. This isn't a matter of any other cases where she's
19 admitting that she was late.

20 JUDGE RINGLER: I appreciate that, I do. But then
21 again could he theoretically ask for me to sign a subpoena to
22 call her back and ask her questions about it? Yes. So it's a
23 couple of questions. I'll -- I'll permit it. So, go ahead.
24 Counsel.

25 MR. GOODE: Thank you.

1 BY MR. WALTERS:

2 Q. Did other partners have attendance issues?

3 A. Not to my knowledge.

4 Q. why do you think that Starbucks has an attendance and
5 punctuality policy?

6 MR. GOODE: Objection. Vague.

7 MR. HAYES: Vague relevance.

8 JUDGE RINGLER: Sustained.

9 BY MR. WALTERS:

10 Q. Have other partners and way I refer to partners. We
11 understand you talking about other employees at the store?

12 A. Yes.

13 Q. Have other partners ever been late when you were there?

14 A. Well, of course.

15 Q. And how did that affect your job when you were working
16 with other persons who were scheduled to be there at a certain
17 time or late?

18 MR. GOODE: Objection. This is outside the scope,
19 Judge.

20 JUDGE RINGLER: Yeah. I'll -- I'll permit it. You
21 can answer. Go ahead.

22 BY MR. WALTERS:

23 A. I mean, it depends on how late they were.

24 Q. Explain?

25 A. I mean, if they were 15 minutes late, that's maybe I can

1 handle being bar by myself an extra 15 minutes. But if it's
2 hours late, then that can be an issue.

3 Q. And when a partner is late, that means the other partners
4 are working, have to do their work plus that partner's work,
5 correct?

6 A. I mean, I would say that we were already doing multiple
7 work, so it wouldn't really change the amount of work that we
8 were doing.

9 Q. So your testimony is, as you're hypothetically, if you
10 have three or four partners scheduled to work your testimony is
11 if one of those four partners doesn't show up, or is late, that
12 your testimony is that the three partners that are there don't
13 have to do additional work?

14 A. What I'm saying is regardless of the amount of people on
15 the floor we were doing multiple people's jobs, constantly.

16 Q. Is it fair to say that if the partner was late, then the
17 partners who were there had to do more?

18 A. Again, depends on who the person was and the department
19 they were.

20 Q. When did you first become aware of Starbucks attendance
21 and punctuality policy?

22 A. I knew about it from the day I was hired at the --
23 what's the word?

24 Q. Orientation?

25 A. Yeah.

1 Q. And you received a copy of the partner guide with the
2 attendance and punctuality, correct?

3 A. Correct.

4 Q. I'm showing you what's been marked RX-16. Do you
5 recognize this document?

6 A. Yes. It looks like the policies.

7 Q. And it includes the attendance and punctuality policy?

8 A. Correct.

9 Q. In addition to receiving a copy of the attendance and
10 punctuality policy, when you were hired at orientation, did you
11 additionally receive this copy of the attendance and
12 punctuality policy on June 17th, 2022?

13 A. I don't remember the exact date given this, but I do
14 remember getting one.

15 Q. Okay, let me direct you to the top of RX-16. There's
16 some, looks like a printed name Sariah Hikes, is that your
17 name?

18 (Respondent's Exhibit 16 identified.)

19 A. Sariah Hikes.

20 Q. I'm sorry, Sariah Hikes. Is that your name?

21 JUDGE RINGLER: I think it's Hikes.

22 MR. WALTERS: Hikes.

23 JUDGE RINGLER: Hikes.

24 BY MR. WALTERS:

25 A. Yes.

1 Q. Okay, thank you. I apologize for mispronouncing. And did
2 you write your name?

3 A. Yes.

4 Q. And next to it, it looks like a signature Sariah Hikes, is
5 that your signature and would you write that?

6 A. Yes.

7 Q. And next to your signature, there's a date, 06-17- '22, is
8 that June 17th, 2022?

9 A. Yes.

10 Q. And did you write that?

11 A. I would assume so.

12 Q. Does that refresh your recollection that in addition to
13 receiving a copy of your attendance and punctuality policy,
14 when you were hired during orientation, that you received this
15 copy on June 17th, 2022?

16 A. I wouldn't doubt that I received it on this date based on
17 what's right here.

18 MR. WALTERS: Thank you. Judge, we move to admit RX-
19 16.

20 JUDGE RINGLER: Any objection to R-16?

21 MR. GOODE: Judge, I -- I, I don't object to the
22 document. I just want to note for the record that if you look
23 at the bait stamps at the bottom, this is very clearly a
24 document that was supposed to be, or it has been part of the
25 first batch that we don't have access to, and goes again to my

1 earlier statements that documents are being used that are
2 responsive to our subpoena that we don't have access to. We
3 should have had access, Judge.

4 JUDGE RINGLER: Was this in the first that they
5 received?

6 MR. BALSAM: Of course, it's paid flip.

7 JUDGE RINGLER: Okay.

8 MR. BALSAM: We -- we produced it when they asked us
9 to produce it. This notion that they don't have access to,
10 it's incorrect.

11 MR. GOODE: We don't have usable access to it, Judge,
12 that's the problem. We can't just go in and find this document
13 quickly.

14 JUDGE RINGLER: Right.

15 MR. GOODE: The way that the process is -- is working
16 until, for, for a couple of days -- we're not able to actually
17 just simply locate this document. Now, I -- it -- it's -- it's
18 the policy that I very likely, I don't have to complaint with
19 me. It's probably the same policy we've alleged. So like, I'm
20 not, I -- I'm not disputing that part of it, but I -- I, I just
21 want to note for the record that this is the problem that I --

22 JUDGE RINGLER: I understand.

23 MR. GOODE: Respondent's subpoena production or lack
24 thereof is -- is creating.

25 JUDGE RINGLER: All right, so I'm going to admit R-

1 16.

2 (Respondent's Exhibit R-16 admitted into evidence.)

3 JUDGE RINGLER: So just so I'm clear that I
4 understand, so the production that, that you folks have -- have
5 given the GC that 60% that they have, I mean is it just in PDF
6 form? No.

7 MR. BALSAM: Yeah, it's a TIF plus production, which
8 is a commonly used production form.

9 JUDGE RINGLER: Okay.

10 MR. BALSAM: We have done that in the little about
11 production counsel for the General Counsel has been doing in
12 this region, but in other region is complaining about the form
13 production as you're hearing right now, claiming it's not a
14 usable form. It's a highly recommend -- highly recognized
15 format of production.

16 It's being used everywhere. It's -- it's routine to
17 be doing that. It's not our fault, that their systems have
18 limitations to prevent them from accessing a day off. The
19 remedy of course, Judge is to say to the counsel for the
20 General Counsel is not to provide us with very limited amount
21 of time to comply with subpoenas and not to have hearing the
22 date that the subpoenas return, if they are fearful that
23 they're not going to access these documents, the solution is to
24 do is to postpone the hearing.

25 JUDGE RINGLER: Right.

1 MR. BALSAM: To a different date. They didn't do
2 that. They didn't want to do that. That's not our problem.

3 JUDGE RINGLER: So just explain to me why is it --
4 just so it's on the record clearly, why is it not usable as of
5 now for the GC?

6 MR. GOODE: As, as I understand, Judge and I -- at
7 some point you need a physical motion or something in writing,
8 I can probably do that, but as I understand it, Judge the way
9 it comes into our system. It has -- there's a load file,
10 there's the TIFF images.

11 There's a couple of other components to it. And the
12 way it goes through our system, the way that it's being
13 produced is we have -- we can't search it yet. It takes days.
14 And that's the problem.

15 This idea that the way they've produced it, it works
16 in other systems. Yeah. It might work in federal court where
17 discovery is due months before the actual hearing, but in our
18 process, I'm -- I could be done with my case in chief before I
19 even act, have access to any of these documents.

20 JUDGE RINGLER: No, I understand. So --

21 MR. GOODE: And again, I'm I -- this --

22 JUDGE RINGLER: Let me ask this because you're
23 educating me as well. So if, if he provided the same to you,
24 how long would it take for Respondent counsel be able to course
25 through it?

1 MR. BALSAM: My e-discovery counsel is not here.

2 JUDGE RINGLER: Your e-discovery, Counsel is not
3 here.

4 MR. BALSAM: So I can't answer that question, but I -
5 - I think that there are certain limitations that we would face
6 as well. It's based on the way that the system loads
7 translates, gets the documents in a different format. That's
8 what comes down.

9 But they do have the ability to do that. And so this
10 notion that they don't have these documents, and this is sort
11 of what shotgun litigation, guess what we're facing the same
12 problem that they claim they're facing themselves.

13 JUDGE RINGLER: Right. Okay. I -- I'm going to
14 admit R-16, I think I probably already said that, but I do
15 appreciate you placing on the record your explanation of what
16 is going on, and let me know in terms of the first batch, when
17 you've had a chance to finally go, when do you expect that
18 you'll know that, okay, I now have usable documents in the
19 first batch.

20 MR. GOODE: I -- I can ask that question and report
21 back, Judge. I -- I don't know. From what I understand, it
22 takes several days.

23 JUDGE RINGLER: But here's the thing though, that I
24 guess that I -- I'm not getting, let's suppose they provided
25 everything on day one. You still couldn't use everything on

1 day one.

2 MR. GOODE: But that's, that's the form in which
3 they're providing it, Judge. We're not.

4 JUDGE RINGLER: But you're saying the form that
5 they're providing it in is not an appropriate form?

6 MR. GOODE: Well, I -- I, I've had other hearings
7 where I get documents, I get a link and it pops up and all the
8 PDFs are there. I can search everything. It's not a problem.
9 It's how the documents are being produced, by Respondent and,
10 and not just to go back to Buffalo 1, as I understand it. And
11 I -- I can get somebody here that was present for that. No
12 documents the General Counsel didn't have access to documents
13 for, for week. Like at least from what I understand --

14 JUDGE RINGLER: I don't want, I don't want to so much
15 get in.

16 MR. GOODE: No, but I just want to correct
17 misrepresentations that are on this record.

18 MR. BALSAM: There's no misrepresentation being made.
19 Counsel for the General Counsel got documents. Were made
20 available day one? No, but in this case they were. And so
21 this notion that they're not available is misrepresentation.

22 JUDGE RINGLER: Now let me ask this. And you may or
23 may not know, I mean, it almost seems to me that the General
24 Counsel could purchase some software or some system that they
25 could go through this. Is that really the issue that, that's

1 going on? I mean, I'm not --

2 MR. GOODE: That's above my pay grade, Judge.

3 JUDGE RINGLER: That's above your pay grade to kind
4 of --

5 MR. GOODE: I, if you, if we would like to have a
6 discussion that that'll -- I can -- I can --

7 JUDGE RINGLER: Yeah, no. I'm just trying to, I'm
8 just trying to understand that it might come up some more of
9 this issue, so I just wanted to have a better handle on what
10 was going on. You explained it well, so I appreciate that you
11 explained it well as well.

12 So, all right counsel, I'll let you continue with
13 your -- your cross of this witness. So R-16 is in and we will
14 let you go from there. Last point I'll make on this, that to
15 the extent that you can anticipate for future cases that this
16 might go on, and this is also for Starbucks counsel, it might
17 be really more applicable to you because you're going from
18 region to region to deal with this.

19 You might want to suggest to the -- the future Judge
20 that hears another case, Hey, just open by telephone on day one
21 you could say that, Hey, we have this issue or we can't
22 download the documents and then set a -- set a date after, you
23 know, that you could continue.

24 So that's something that collectively, you know, you
25 all might want to think about for, you know, future dealings.

1 So just that being said. Okay, because that would, that would
2 address this, this issue that we're confronting. Okay.
3 Continue with cross.

4 BY MR. WALTERS:

5 Q. And you testified that you were issued a written warning
6 for attendance and punctuality on June 20, 2022; is that
7 correct?

8 A. Yes.

9 Q. And that was GC 10?

10 A. Yes.

11 Q. So if I could direct your attention to GC 10, which has
12 already been admitted, what does the document say is the reason
13 for your final written warning?

14 MR. GOODE: Objection. The document speaks for
15 itself.

16 MR. HAYES: The document speaks for itself. So the
17 witness didn't attest --

18 JUDGE RINGLER: I suspected that this is the lead up
19 to him asking another question about it. So I'll -- I'll allow
20 it. And certainly, he could lead, you know, doesn't the
21 documents say extra Y or Z. So it, it's fine, you can answer
22 it.

23 BY MR. WALTERS:

24 A. It states that I was late for some shifts and I was unable
25 to come to my work.

1 Q. And it also states among other things that it's a final
2 warning for failing to adhere to the schedule of violation of
3 Starbucks, time and attendance policy, is that correct?

4 A. Yes.

5 Q. And how many times does it say you were late?

6 MR. GOODE: Objection, Judge.

7 BY MR. WALTERS:

8 Q. In this corrective action.

9 MR. GOODE: I mean, the document speaks for itself.
10 He can make this argument in brief if he wants. I mean --

11 JUDGE RINGLER: Yeah, I think that's fair. I think
12 that's fair. It does speak for itself. It looks like it's
13 roughly 20 times.

14 MR. WALTERS: Actually, may I ask two questions to
15 try to shorten it?

16 JUDGE RINGLER: Sure.

17 MR. WALTERS: But I'll have a clear record.

18 JUDGE RINGLER: Go ahead.

19 BY MR. WALTERS:

20 Q. Does the final written warning show that you were late on
21 10 occasions?

22 JUDGE RINGLER: The final, we're talking about the
23 final written warning?

24 MR. WALTERS: Yes. And I'm sorry. Where I'm going
25 with this, the final written warning covers both, you know,

1 times that you were late and times that you were absent. So I
2 just want to get on the record.

3 JUDGE RINGLER: Oh, I see.

4 MR. WALTERS: The number of times that you were late.
5 Is that 10 times?

6 MR. GOODE: It's already in the record. The document
7 is in the record.

8 JUDGE RINGLER: Oh, I'll permit it. It is cross. So
9 I'll -- I'll allow it. So the answers yes?

10 BY MR. WALTERS:

11 Q. May I ask, just so the record is clear, were you late 10
12 times? Is that correct?

13 A. Yes.

14 Q. And you were absent nine times, correct?

15 A. It says is eight. Oh wait, there is one on the top nine.
16 Yeah.

17 Q. Thank you. And below their list of times that you were
18 late and absence it states, "partner going forward you are
19 expected to satisfactorily carry out all of your job duties and
20 adhere to all of Starbucks standards policies and procedures.
21 Failure to do so may result in further corrective action, up to
22 and including separation of employment". Did I read that
23 correctly?

24 A. Yes.

25 Q. And then in the partner statement you were given an

1 opportunity to respond and give your point of view to the final
2 reprimand, correct?

3 A. Yes.

4 Q. And what did you write?

5 A. I expressed that I don't drive to work and that I would
6 need flexibility with my time of arrival, and that I would also
7 try my best to also get to work on time.

8 Q. And if I could direct your attention to the second page of
9 GC-10. Is that your signature?

10 A. Yes.

11 MR. GOODE: Objection, asked and answered, Judge.

12 MR. WALTERS: Excuse me, I didn't hear the objection.

13 MR. GOODE: Asked and answered.

14 MR. WALTERS: No, actually when I asked about the
15 signature before it was on Respondent's exhibit 16, where I
16 asked about the signature at the top.

17 MR. GOODE: On direct examination she testified about
18 the signature.

19 JUDGE RINGLER: Is that your signature on GC-10.

20 THE WITNESS: Yeah.

21 JUDGE RINGLER: Okay.

22 BY MR. WALTERS:

23 Q. And did you also write the date next to your signature?

24 A. Yes.

25 Q. And did you print your name next to the date?

1 A. Yes.

2 Q. And did you write your partner number to the right of your
3 printed name?

4 A. Um-hmm.

5 Q. Is that a yes, for the record?

6 A. Yes.

7 Q. And if I could direct your attention to GC-11, that has
8 already been admitted. What does this document say is the
9 reason for your discharge?

10 MR. GOODE: Judge, I just --

11 JUDGE RINGLER: I will sustain the objection. The
12 document does speak for itself.

13 MR. GOODE: Thank you.

14 BY MR. WALTERS:

15 Q. You testified on direct that store manager Disha called
16 multiple times and you ignored those calls. Do you recall that
17 testimony?

18 A. Yes.

19 Q. Why didn't you call store manager Disha back?

20 A. I had stated previously, that I was already on my way into
21 work. So I felt that there was no need, especially when I
22 believe that I was not late to work.

23 Q. And when you arrived at work you said Disha was in the
24 front, correct?

25 A. Yes.

1 Q. Why didn't you ask Disha why she called you?

2 A. Again, because I didn't think I was late to work. I
3 thought I was on time. I still believe that I was on time.

4 Q. But any other reason you had missed calls, any other
5 reason you didn't ask Disha why she called you multiple times,
6 when you arrived?

7 A. No.

8 Q. Have any of your previous store managers called you when
9 you were late?

10 A. At Starbucks?

11 Q. Yes.

12 A. I would assume so, yes.

13 Q. And when you were describing Starbucks attendance and
14 punctuality policy you mentioned that if you are absent you
15 need to bring a doctor's note. Do you remember that testimony?

16 A. Yes.

17 Q. Did you ever bring a doctor's note for your absences?

18 A. Yes.

19 Q. Who did you give that to?

20 A. I tried to give it to Disha and she wouldn't accept it.
21 She said, it would go against HIPAA

22 Q. And what date was that?

23 A. I don't remember the exact date, but I believe there's a
24 occurrence on my corrective action form I believe.

25 Q. If you could review your corrective action form GC-10 and

1 see if that refreshes your recollection as to the date when you
2 said that you tried to give the store manager a note?

3 A. I believe it was April 20th, and those two days passed
4 that as well. When I had called off for multiple days, since I
5 had bronchitis.

6 Q. Are you familiar with partner resource center?

7 A. Can you speak up? I'm sorry.

8 Q. Oh, sure. Are you familiar with Starbucks -- Does
9 Starbucks have a telephone number you can call if you have any
10 concerns or questions related to your employment?

11 A. I do not know about that, no.

12 MR. WALTERS: No further questions.

13 JUDGE RINGLER: You squared away. Okay, anything on
14 redirect?

15 MR. GOODE: Nothing on redirect, Your Honor.

16 MR. HAYES: No questions.

17 JUDGE RINGLER: Okay. Thank you very much for your
18 testimony. Please don't discuss it with anyone. Okay. You
19 set.

20 THE WITNESS: Okay.

21 JUDGE RINGLER: Okay. All right

22 MR. GOODE: You're free to go.

23 THE WITNESS: Could I leave this?

24 JUDGE RINGLER: You could leave them up there, if you
25 would that's perfect. Okay. All right. So why don't we do

1 this 12:16 we'll reconvene at 1:15, make it 1:20. We'll start
2 up again.

3 (Lunch recess at 12:17 p.m./ Reconvened at 1:23 p.m.)

4 JUDGE RINGLER: Okay. Perfect. So 1:20. All right.
5 Thanks. Okay. We're back on the record. So we've got our
6 next witness on the witness stand. So if you could state your
7 name for the record and then spell it for us. First, I'll
8 start at an easy question.

9 THE WITNESS: Sure. Jaz Brisack. J-A-Z B-R-I-S-A-C-
10 K

11 JUDGE RINGLER: All. Please raise your right hand.
12 (Whereupon,

13 JAZ BRISACK,
14 was called as a witness by and on behalf of the General Counsel
15 and, after having been duly sworn, was examined and testified,
16 as follows:)

17 JUDGE RINGLER: All right. And counsel, what
18 complaint paragraphs are we going to testify about?

19 MR. GOODE: I believe it's 8E, 9E, and F, Your Honor.

20 JUDGE RINGLER: 8E, 9E, and 9F. Okay. Go to it.

21 DIRECT EXAMINATION

22 BY MR. GOODE:

23 Q. DIRECT. GOODE. Jaz, what are your pronouns?

24 A. They or any pronouns.

25 Q. Jaz, have you ever worked for Starbucks?

1 A. Yes.

2 Q. When did you first begin working for Starbucks?

3 A. In December of 2020.

4 Q. And what store did you start working at?

5 A. The Elmwood store.

6 Q. Is that here in Buffalo?

7 A. Yes.

8 Q. Are you involved with Workers United?

9 A. Yes.

10 Q. Okay. Are you still employed with Starbucks?

11 A. No.

12 Q. About when approximately did your employment end?

13 A. My last shift was in September of 2021. Sorry, 2022.

14 Q. 2020. Were you working at Elmwood when the initial
15 Starbucks -- the initial union campaign began?

16 A. Yes.

17 Q. Were you involved in that campaign?

18 A. Yes.

19 Q. Okay. How were you involved?

20 A. I was one of the founders of the organizing committee and,
21 you know, part of the group that, you know, started talking to
22 coworkers and initiating the organizing effort.

23 Q. Okay. Were you signatory to the initial Dear Kevin
24 letter?

25 A. Yes.

1 Q. And that -- do you recall approximately when that went
2 public?

3 A. Yes. It was August 23rd of 2021.

4 Q. I'm going to direct your attention to approximately
5 February of 2022. Who was your store manager at that time?

6 A. Patty Shanley. And Merley was coming in in late February.

7 Q. Okay. Do you know Merley's last name?

8 A. Alameda-Roldan.

9 Q. And at that time, February of 2022, what was your
10 availability in the Starbucks system?

11 A. I think it was still the four days which was Friday
12 through Monday opening shift.

13 Q. Okay. And how is your availability recorded at Starbucks?

14 A. In the -- my Partner Hours system.

15 Q. And can you just take us through what you -- what you --
16 you know, do to request a certain availability?

17 A. Yes. So you go in -- you log in with your partner numbers
18 into the online system, which is where your schedule is, your
19 time off requests, and your availability requests. And there's
20 a page where you can request a change to your availability.

21 So it has like all the dates and you just fill in,
22 you know, either you're available the whole day or parts of the
23 day and you can put in the hours and then you know, you hit
24 submit and it goes to the manager's side where they can then
25 approve it or deny it.

1 Q. Now, from your four days of availability in February, did
2 -- did your availability reduce at all in the future?

3 A. Yes.

4 Q. Okay. Explain how it reduced.

5 MR. BALSAM: Objection compound.

6 JUDGE RINGLER: I'll allow it. Go ahead. You could
7 explain how it reduced.

8 BY MR. GOODE:

9 A. So I was trying to request less availability. I had a
10 verbal conversation with Patty Shanley about going down to one
11 or two days a week. She said that that was out of the
12 question, she could not approve one or two days a week
13 availability.

14 So after a few conversations, I submitted an
15 availability request for three days a week Saturday, Sunday,
16 and Monday opening shift, and she approved that.

17 Q. And approximately what month, if you can recall, did that
18 availability reduction go into effect?

19 A. I believe most of that was February, but it could have
20 gone into March. It was at the same time that Cassie was
21 trying to change her availability. So this, the conversations
22 with Patty were taking place as Cassie was also being told she
23 couldn't work.

24 Q. And who's Cassie?

25 A. Sorry. Cassie Fleischer was my coworker at Elmwood who

1 also requested a reduction in hours.

2 Q. Okay. What position did Cassie hold?

3 A. Barista.

4 Q. Okay. You testified that you're -- what shift did you
5 typically work as a barista?

6 A. I was an opener.

7 Q. Okay. In that March 2022 timeframe, what time was your
8 store typically opening?

9 A. 5:30 on weekdays and 5 -- or sorry, 5 -- 5:30 on weekends,
10 5:00 on weekdays.

11 Q. Okay. Can you give us some information on how -- how many
12 partners are typically scheduled in your experience for a
13 morning shift?

14 A. So at opening, usually you have three or four partners
15 scheduled, one shift supervisor and two baristas. You know,
16 you can open a store with two, but in that period it was always
17 three or four. And then more people would be scheduled, you
18 know, after open.

19 Q. What was your role as an opening barista typically?

20 A. To help set up the store for the morning, and then usually
21 as we opened I would be on bar making drinks. So you know, at
22 -- as you're opening the store, you're making sure that you
23 have the teas, the coffees brewed, or you're setting up the
24 pastry case and just kind of getting the store presentable and
25 with, you know, the things that you need to make fresh, ready

1 to go.

2 Q. At the time that you spoke with Patty about reducing your
3 availability, did you tell her why you wanted to reduce your
4 availability?

5 A. Yes.

6 Q. Okay. What did you tell her?

7 A. I told her that I had a second job and that I needed more
8 availability to help with organizing because you know, there
9 were a lot, but this was the period when the campaign was
10 really taking off across the country and I told her, you know,
11 I needed to be more available for that.

12 Q. And when you say organizing, what do you mean?

13 A. I was helping other Starbucks workers organize their
14 cafes.

15 MR. GOODE: Thank you.

16 BY MR. GOODE:

17 Q. Jaz, I'm showing you what's been marked for purposes of
18 identification as GC Exhibit 12. Can you please take a look at
19 what's depicted in this document? Let me know when you're
20 finished.

21 A. Ready.

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. Okay. What is this?

25 A. This was the availability request that I submitted in May

1 that was denied.

2 (General Counsel's Exhibit 12 identified.)

3 Q. Okay. So let's -- let's looking at this document can you
4 explain what we're -- what we're looking at here?

5 A. Yes. So this is an availability request that would've
6 started June 11th, and that shows that I'm available Sunday
7 mornings from open till noon, so 5:30 to noon.

8 Q. Okay. Approximately, when did you submit this
9 availability request?

10 A. It would've been three weeks, I think before June 11th, so
11 late May.

12 Q. Okay. Is this a screenshot?

13 A. Yes.

14 Q. Do you know who took the screenshot?

15 A. I took it in my Partner Hours.

16 MR. GOODE: I move for permission of GC-12, Your
17 Honor.

18 JUDGE RINGLER: Any objection to GC-12?

19 MR. BALSAM: Voir dire.

20 VOIR DIRE

21 BY MS. BALSAM:

22 Q. Here at the top hand corner, there are some numbers. The
23 first one is US 2973540. Do you know what that reflects?

24 A. Yes. That's my partner number.

25 Q. Okay. And what about 7381?

1 A. That's the Elmwood store number.

2 Q. Okay. And then in order to access the Partner Hub to
3 modify or request modification of your availability, do you
4 have to enter a PIN code?

5 A. You have to enter a security question.

6 Q. Okay. Did anyone else know your security question?

7 MR. BALSAM: I have no objection, Judge.

8 JUDGE RINGLER: All right. So we'll admit to GC-12.

9 (General Counsel's Exhibit 12 is admitted.)

10 BY MR. GOODE:

11 Q. Was this availability change request accepted, Jaz?

12 MR. BALSAM: Objection. Asked and answered.

13 BY MR. GOODE:

14 A. No.

15 JUDGE RINGLER: Overruled. You answered no?

16 THE WITNESS: Yes.

17 JUDGE RINGLER: Okay.

18 BY MR. GOODE:

19 Q. At the time that you submitted this availability request,
20 who was the store manager?

21 A. It was Merley Alamedo-Roland.

22 Q. Okay.

23 A. Patty left before I came back from my LOA.

24 MR. BALSAM: Objection. Have question pending.

25 JUDGE RINGLER: Sustained. Sustained.

1 BY MR. GOODE:

2 Q. When you submitted this request, were you were you working
3 at that time?

4 A. No. I was on an LOA.

5 Q. Okay. What does LOA stand for?

6 A. Leave of absence.

7 Q. And did you subsequently return from that leave of
8 absence?

9 A. Yes.

10 Q. After returning from that leave -- do -- do you know
11 approximately when you returned from that leave of absence?

12 A. The end of May.

13 Q. Did you -- once you returned, did you have any
14 conversations with Merley about your availability?

15 A. Yes.

16 Q. Take us through this conversation.

17 A. So I was meeting with her about weekly and talking to her
18 about how I needed a reduction in availability, how I was not
19 physically available for the Saturday and Monday shifts that
20 she was scheduling me and how, you know, denying my
21 availability in the system didn't change the fact that I was
22 not available for those shifts.

23 I tried to propose, you know, other possible
24 solutions including you know, saying that I could work one or
25 two days a week. So if she needed me for an additional day, I

1 was open to one or two days a week of availability.

2 And she would tell me you know, we don't have enough
3 partners at Elmwood or we're short staffed. And so I said, you
4 know, I'm willing to work the full shifts until we get more
5 partners trained and then you know, have my one day a week
6 availability after there's enough people to cover those shifts.
7 And she said that that was absolutely not possible and that,
8 you know, could not work.

9 Q. Okay. Can you estimate how frequently you were having
10 these conversations with Merley?

11 A. It was about weekly usually in the store, but then
12 especially as the summer progressed if she wasn't working on
13 the Sunday morning shift, it would sometimes be over the phone
14 as well.

15 Q. Jaz, I'm showing you what's been marked for purpose of
16 identification as GC Exhibit 13. Can you please look through
17 this document and let me know when you've finished? Jaz, do
18 you -- can you tell us or do you recognize what's depicted in -
19 - in GC Exhibit 13?

20 A. Yes.

21 Q. Okay. Tell us what -- what's in this document?

22 A. So these are screenshots of the listing of my schedule in
23 the My Partner Hours website. And it shows the shifts that I
24 was scheduled as well as time punches.

25 (General Counsel's Exhibit 13 identified.)

1 Q. And who took these screenshots?

2 A. I did.

3 Q. And how did you do that?

4 A. On my laptop, logged into the My Partner Hours portal.

5 Q. Okay. And are these screenshots a fair and accurate
6 representation of the way your schedule looks in the partner
7 hub each week?

8 A. Yes.

9 Q. Okay.

10 MR. GOODE: We offer GC Exhibit 13, Judge.

11 MR. BALSAM: Voir dire.

12 JUDGE RINGLER: Go ahead.

13 VOIR DIRE

14 BY MR. BALSAM:

15 Q. On the first page of GC Exhibit Number 13 to the far right
16 corner and where it's a Saturday?

17 A. Yes.

18 Q. And then there's two boxes. One, it says 5:30 to 11:00
19 a.m. and below this says coverage?

20 A. Yes.

21 Q. What does coverage indicate?

22 A. Coverage means that you're going to be working on the
23 floor as opposed to training or some kind of other task.

24 Q. Okay. And below that it says 5:30 a.m. to 11:12 a.m. it
25 says coverage also. And the hours is 5.7. What does that

1 indicate?

2 A. So the below one is how many hours you actually worked.

3 So the -- the first one is what you're scheduled for.

4 Q. Okay. Did you actually work on Saturday, June 4th at
5 5:30?

6 A. Yes.

7 Q. Okay. And again, I think you testified that you took a
8 picture of the partner hours to obtain this schedule?

9 MR. BALSAM: No objection, Judge.

10 JUDGE RINGLER: All right. So we'll admit --

11 MR. GOODE: I did not get an answer.

12 MR. BALSAM: She said yes.

13 MR. GOODE: She said yes?

14 JUDGE RINGLER: She said yes.

15 MR. GOODE: She did? Okay.

16 JUDGE RINGLER: All right. So we're going to admit
17 GC-13.

18 (General Counsel's Exhibit 13 is admitted.)

19 BY MR. GOODE:

20 Q. Jaz, if you will look on -- let's take the -- the first
21 page. If you look on the left side of the screenshot where it
22 says scheduled hours and punched hours, can you explain what --
23 what those boxes mean?

24 A. Yes. So the scheduled hours row is what the store manager
25 scheduled me for which is 12 hours and -- 12 and a half hours.

1 And then the punched hours shows what you actually work. So in
2 this case it was a little more than that because I stayed a
3 little after my shift.

4 Q. If I can have you turn to the second page for the week
5 marked 6/6/22 to 6/12/22. No, I'm sorry. I'll have you go to
6 the third week. I apologize.

7 A. Yes. No, you're good.

8 Q. So third page, June 13th for the week to June 19th. Are
9 you with me?

10 A. Yes.

11 Q. Okay. Can you -- the -- the box on the left that has 6:30
12 to 10:30 coverage, can you explain what's in that box?

13 A. Yes. So this is the shift that I was scheduled for. It
14 starts with coverage, meaning you're working on the floor,
15 making drinks or, you know, ringing people out. Then it has a
16 30-minute block for training.

17 This was either like a promotional, you know, summer
18 launch kind of training or something like that. You know, we
19 have those sexual harassment trainings, all those kinds of
20 things on the iPad.

21 So you go off the floor and then you go back on for
22 the last 30 minutes of coverage. So that's how it's coded and
23 why it's different colors.

24 Q. Okay. Did you -- did you work that shift?

25 A. No.

1 Q. How can you -- looking at this document, how can you tell
2 that you did not work?

3 A. Because it doesn't show punched hours.

4 Q. If we stay on that week and you look to the right side of
5 that page where it says Saturday and Sunday, and I see the
6 words time off, can you describe what that means?

7 A. Yes. That means that I had submitted a request for time
8 off at least three weeks before the schedule was created. It
9 was approved by the store manager. So instead of, you know, it
10 showing those days blank or with a -- a shift scheduled, it
11 shows the time off because it was in the system already.

12 Q. Okay. I'm going to have you turn to the week of June 27th
13 through July 3rd. I see a plaque and scheduled hours for
14 Monday the 27th. And the words called off. What does that
15 mean?

16 A. That means that the store manager went into the system and
17 inputted it as called off. So if someone covers your shift, it
18 still shows the shift, but it just shows no punched hours.

19 If you call off, the store manager is supposed to go
20 in the system and update it. Although, you know, it depends on
21 the store manager's following through to actually have it show
22 that.

23 Q. So sticking there, can you explain -- looking at these
24 schedules, is there a chance on some of these days that you did
25 call off, but it's not reflected in here?

1 A. Yes.

2 Q. Okay. And how would that -- how would we know that?

3 A. That I'd called off and it wasn't coded?

4 Q. Yeah.

5 A. It would've been the store manager's responsibility to go
6 in the system and do that. So I wouldn't -- even if I'd called
7 her or called the store, if she didn't put it in the system on
8 that day, it wouldn't show.

9 So I don't have a specific way of knowing if it
10 doesn't show that -- that it wasn't the case. It either means
11 -- if there's no punch hours, it either means that the shift
12 was covered or I called off.

13 Q. And if the shift was covered, are you aware of who was
14 calling employees to get that covered?

15 A. I was.

16 Q. Okay. So explain -- explain that, please.

17 A. So I would, you know, either speak to coworkers post in
18 the store group chat or in the Buffalo Shift coverage group
19 chat that included partners from various stores, what shift was
20 available.

21 And if someone was available to take it, then I
22 would, you know, communicate to Merley that someone was able to
23 take the shift and Merley would either approve or deny that
24 coverage swap request.

25 Q. Can you -- so starting kind of back to the -- the -- the

1 summer of 2022, did Starbucks or -- or Merley specifically
2 continue to schedule you for Monday and Saturday shift?

3 A. Yes.

4 Q. Can you estimate approximately how many of those shifts
5 you were able to find coverage for?

6 A. It wasn't that many. I believe it was between 10 and 20%,
7 but it was not super frequent and sometimes I think that's not
8 including the times that I was able to find coverage that
9 Merley then would not approve.

10 Q. Okay. So --

11 MR. BALSAM: Judge, I'm going to object to the
12 continuation of this line of questioning. I'm not entirely
13 sure how it's any relevance in this. There's literally three
14 allegations in here and not enough to -- anything to talk
15 about.

16 JUDGE RINGLER: Counsel?

17 MR. GOODE: Yeah. We're -- we're alleging in the
18 complaint that Starbucks purposely made the working environment
19 untenable at -- at the store by Merley continuing to schedule
20 shifts for those days that she knew Jaz couldn't be there. So
21 that's why this line of questioning is -- is relevant, Judge.

22 JUDGE RINGLER: Okay. I'll let you continue. Go
23 ahead. Thank you for clarifying that.

24 BY MR. GOODE:

25 Q. I -- I -- I -- sorry, I don't -- I don't really remember

1 where we left off here, but I -- I believe you mentioned that,
2 that there were instances where you found coverage and Merley
3 denied that. Can you explain?

4 A. Yes. So there were, I had coworkers who were shift
5 supervisors who were available to take my shifts. Usually the
6 other baristas were already scheduled on the -- you know, who
7 could have otherwise taken my shifts.

8 So on at least two occasions shift supervisor
9 coworkers had offered to cover those shifts pending Merley's
10 approval. And then Merley said that they were not allowed to
11 do that because shift supervisors were not allowed to take
12 barista's shifts, which was never something I had seen, you
13 know, enforced in the past or even stated.

14 Q. Okay. In your experience at -- at Elmwood have -- had,
15 prior to this had shift supervisors covered barista's shifts?

16 A. Yes.

17 Q. Okay. Can you estimate how many times you've seen that?

18 A. It was frequent, especially in a situation where you were
19 going to have a call off? Because the premise was, you know,
20 you wanted somebody in that role because you would rather, you
21 know, do whatever it took to not have the store down a partner.
22 So I'd had shifts covered by shift supervisors in the past.

23 Q. Can you recall who -- who -- I think you mentioned two
24 examples. Can you remember or recall who those shift
25 supervisors were?

1 A. Yes. It was M Hirsch and Bridget Shannon.

2 Q. And did you -- do you know approximately when those, those
3 instances occurred?

4 A. I believe July, August-ish.

5 Q. And is that 2022?

6 A. Yes.

7 Q. Have -- have you ever worked an opening shift or a partner
8 calls off in coverage is not found?

9 A. Yes.

10 MR. BALSAM: Objection, relevance.

11 JUDGE RINGLER: I'll allow it.

12 BY MR. GOODE:

13 A. Yes.

14 Q. Take me through that experience.

15 A. It's significantly more challenging to do your job as a
16 Starbucks partner because there's just not enough people to
17 share the workload. You know, the -- the schedule is
18 calibrated to make sure that, you know, you have people to fill
19 different positions, particularly at peak times, which openers
20 work through the morning peak.

21 You know, it means that you might not have someone
22 available to do the customer support role or other key
23 positions, and, you know, it puts added pressure on people to,
24 you know, get everything ready.

25 Sometimes it means that the, you know, opening shift

1 is having to, you know, do all of the shift tasks and brew the
2 coffee, which would normally be done by a barista.

3 Q. When you pulled off for these shifts, how -- how did you
4 do that?

5 A. I would call Merley and sometimes I would find her at the
6 store, sometimes not. I ended up calling both Merley and the
7 store because I was told that Merley was not always
8 communicating my call off back to the store which meant that,
9 you know, I was still being shown on the DCR for the next day
10 when I had called off and should have already been marked out.

11 Q. And what's a DCR?

12 A. It's the sheet that shows everyone's scheduled shift for
13 that given day so that the shift supervisor can see, like when
14 people are coming in.

15 Q. If you were calling off for a particular shift, when would
16 you call off?

17 A. The day before or sometimes the evening before.

18 Q. And did you and Merley ever have discussion in any of
19 these call phone calls when you're calling off?

20 A. Yes.

21 Q. Okay. Take me through anything that you recall.

22 A. So it was usually a very similar conversation each time.
23 I would tell her, I'm calling off because I'm not physically
24 available to work the shift that you've scheduled me.

25 I was intentionally saying that because I wasn't

1 calling off because I was sick which is a different situation.
2 And I would try to emphasize to her that, you know, this was
3 not a tenable situation.

4 I needed to not be scheduled for shifts that I
5 couldn't physically work because that was hurting the team.
6 And she would try to say that, you know, that was my hurting
7 the team.

8 And I would say, you know, we've discussed this, you
9 know, I can work one or two days a week or, you know, I'll work
10 until we have the partners and then I'll go back down or, you
11 know, if you need to take me off the schedule, like we can talk
12 about that, but this is not tenable.

13 And she would just say, that's your decision. I
14 would say, no, it's your decision because I've told you
15 repeatedly I'm not available. You're the one denying my
16 availability request and scheduling me on days you know I can't
17 come in.

18 And we would just go in circles. She did not -- she
19 would tell me, you know, the -- you know, the next time I see
20 you in the store, we'll have this conversation. It would be
21 the exact same conversation.

22 Q. At this time -- or -- or in your experience at Elmwood,
23 have other partners had availability that was less than three
24 days?

25 A. Yes.

1 Q. And can you give us some examples?

2 A. Yes. So in the fall of 2021, Kellen Higgins had one day a
3 week availability. Josh Mendez worked one or two days a week.
4 Michelle Eisen (phonetic) frequently had two days a week,
5 depending on her theatre schedule. I'm trying to think.

6 And like before that, like when I was first hired
7 Tiernan (phonetic) whose last name I'm not remembering you
8 know, was a long-term partner who had one or two days a week
9 availability. So it -- it was a very frequent occurrence at
10 Elmwood and at other stores.

11 Q. Yeah. You mentioned earlier in your testimony the
12 individual named Cassie.

13 A. Yes.

14 Q. Can you explain what -- what you know about Cassie's
15 situation?

16 A. So Cassie --

17 MR. BALSAM: Objection, hearsay.

18 JUDGE RINGLER: I'll allow it. Go ahead.

19 BY MR. GOODE:

20 A. So Cassie had, you know, been faced with hour cuts and had
21 thought she was going to be promoted to a shift supervisor and
22 was not. So she needed to get a second job. And she requested
23 a reduction in her hours so that she could work, you know, two
24 jobs and was supposed to be available at Saturday mornings and
25 Friday evenings.

1 And Starbucks denied that request and took Cassie off
2 the schedule meeting. She was not scheduled at all, but she
3 also was not scheduled for the shifts that they knew she
4 couldn't come into.

5 Q. Were there any other employees that you're aware of that
6 Starbucks treated in that manner as well?

7 A. I believe Kellen was taken off the schedule when he
8 couldn't provide the availability that Starbucks was
9 requesting.

10 Q. And at approximately what timeframe were -- were those
11 situations occurring?

12 A. Cassie was taken off the schedule in February of 2022.
13 And I believe Kellen right before that or around the same time.

14 Q. Did you speak to any of your coworkers about you calling
15 off?

16 A. Yes.

17 Q. Okay.

18 A. I wanted my coworkers to understand what the situation was
19 and that I didn't want them in that position of having to deal
20 with the extra burden of a call off.

21 So I talked to, you know, everybody about what was
22 going on, how I was trying to get my availability situation
23 worked out. So I'd had, you know, verbal conversations with
24 coworkers and ultimately conversations in the store group chat
25 as well.

1 Q. Did you get any responses?

2 MR. BALSAM: Objection, hearsay.

3 JUDGE RINGLER: What are you offering it for?

4 MR. GOODE: It goes to the effect of the employer
5 continuing to schedule her -- her shifts it knows she's not
6 available for it. It goes to the effect on what it was doing
7 to the workforce, Your Honor.

8 JUDGE RINGLER: Okay. And how does the effect of
9 what it's doing to the workforce help me in my decision?

10 MR. GOODE: Well, this is the leading Union editor
11 here at that store, Your Honor. And the employers continued
12 short-staffing of that -- of that store and blaming it on Jaz.

13 JUDGE RINGLER: Okay.

14 MR. GOODE: Is -- is --

15 JUDGE RINGLER: Okay. I'll -- I'll allow you to go
16 into it a little bit. Go ahead.

17 BY MR. GOODE:

18 A. So coworkers were telling me that, you know, this was a
19 really, really serious issue, that it was affecting, you know,
20 everything from morale to partner's view of the Union.

21 I had conversations with, you know, a range of
22 coworkers some of whom were, you know, very angry about it and
23 upset with me and with the Union because I -- they told me that
24 management, meaning Merley, was saying, you know, if you're
25 short staffed, blame the Union, blame Jaz, that's the Union

1 doing this to you.

2 MR. BALSAM: Object, objection. This is all hearsay.

3 JUDGE RINGLER: Yes. I'll sustain it. Did Merley
4 say that to you?

5 THE WITNESS: No.

6 JUDGE RINGLER: Blame the Union?

7 THE WITNESS: She said that when I was not.

8 JUDGE RINGLER: When you were not. Okay. I'll
9 sustain the objection.

10 BY MR. GOODE:

11 Q. Can you are there any particular employees you recall
12 hearing this from?

13 A. Yes. From Michelle Eisen, from Britany Marciniak
14 (phonetic), from Bridget Shannon and from Jeremy Pasqua.

15 Q. Who is the last name?

16 A. Jeremy Pasqua.

17 Q. And what position is Jeremy --

18 MR. BALSAM: This is still hearsay.

19 JUDGE RINGLER: Yeah. Sustained. We'll, strike
20 that. You can certainly call those employees in and have them
21 testify to that, but in this case, it is hearsay.

22 BY MR. GOODE:

23 Q. Jaz, did you receive any discipline for those shifts that
24 you called off?

25 A. No.

1 Q. Can you estimate in the June to September timeframe how
2 many shifts you called off?

3 A. I think it had to have been, you know, somewhere between
4 15 and 20.

5 Q. Jaz, I'm showing you what's been marked for purposes of
6 identification as GC Exhibit 14. Can you please take a look at
7 this document? Do you recognize this?

8 A. Yes.

9 Q. What is this?

10 A. This is the resignation letter that I ultimately gave
11 Starbucks.

12 (General Counsel's Exhibit 14 identified.)

13 Q. Okay. Who drafted this letter?

14 A. I did.

15 MR. GOODE: And oh -- I -- I'll move for GC admission
16 of GC-14, Your Honor.

17 JUDGE RINGLER: Any objection to 14?

18 MR. BALSAM: Voir dire?

19 JUDGE RINGLER: Go ahead.

20 VOIR DIRE

21 BY MR. BALSAM:

22 Q. On what date did you create this document?

23 A. I don't remember, but it was right around the same time
24 that I handed it to Merley. So I think September 12th
25 probably. I think I gave it to her on September 13th.

1 Q. And is this current document, do you see Exhibit 14, the
2 same document that you handed to Merley?

3 A. It's a copy of it.

4 Q. Okay. And did you physically hand a copy of to Merley or
5 did you email it?

6 A. I physically handed a copy.

7 MR. BALSAM: No objection, Judge.

8 JUDGE RINGLER: All right. So we'll admit 14. So
9 with respect to this particular witness, you're alleging a
10 constructive discharge?

11 MR. GOODE: Correct, Judge.

12 JUDGE RINGLER: Okay. All right.

13 BY MR. GOODE:

14 Q. Jaz, what day did you give this to Merley?

15 A. I think September 13th, 2022.

16 Q. And where did you give it to Merley?

17 A. In the lobby at Elmwood.

18 Q. Okay. Can you take us through that day?

19 A. Yes. So I had been trying to talk to Merley and I think
20 she, you know, had been unavailable and I knew she was coming
21 back into the store.

22 I had been getting messages from coworkers saying,
23 you know, this is completely untenable. So I went in on the
24 first day that I knew she was working and you know, said, okay,
25 you know, you, you said that we could keep having this

1 conversation, but this keeps, you know, coming back to the same
2 point.

3 This isn't fair to my coworkers. I needed you know,
4 to know, are you going to keep scheduling me for the shifts?
5 I'm not available. And she said, you know, yes, she could not
6 stop scheduling me for those shifts. And you know, that she
7 was not amenable to one or two days that, you know, none of the
8 compromises were possible. So I handed her the letter.

9 Q. And was there any conversation after you handed her the
10 letter?

11 A. The conversation was really before she took it. And she
12 was like, you know, are you sure? And I was like, no, I would
13 -- I would still like to work at Starbucks, but you know, if
14 you're not going to schedule me then, you know, we don't have
15 another option right now.

16 And she was like, okay, I guess that's everything.
17 Then took the letter to the back.

18 Q. Was September 13th or -- or the day that you gave this
19 letter to Merley, was that your final day working at Starbucks?

20 A. No. It was the next Sunday, which I believe was the 18th.

21 Q. I'm showing you the -- what's been already admitted into
22 evidence, GC Exhibit 9. Do you recognize what's in that
23 picture?

24 A. Yes.

25 Q. What is -- what do you recognize that as?

1 A. It's a suicide awareness pin from the Society for Suicide
2 Prevention.

3 Q. Okay. Have you ever seen that pin before today?

4 A. Yes.

5 Q. Okay. Did you wear that pin at work?

6 A. Yes.

7 Q. Okay. Can you take us through approximately when you
8 began wearing that pin at work?

9 A. I know that the Camp Road workers got it in April. I
10 don't think I was wearing it until June because I wasn't
11 working in May, but I know I wore it every shift from sometime
12 around June till my last shift in September.

13 Q. Okay. Were you ever told to take that pin off?

14 A. No.

15 Q. Did you work -- did you work with any store managers while
16 wearing that pin?

17 A. Yes.

18 Q. Do you know the names of the store managers?

19 A. Merley Alameda-Roldan and Mindy, who came in afterwards.
20 Whose last name I'm blanking on at the moment. Mindy Walsh.

21 Q. Okay.

22 MR. GOODE: I have no further questions, Your Honor.

23 JUDGE RINGLER: All right. And -- and counsel, I'm
24 assuming it's your intention to provide schedules to me at some
25 point that corroborate that, you know, people only work two

1 shifts or, you know, whatever kind of thing?

2 MR. GOODE: Say that again. I'm -- I'm sorry, Judge.

3 JUDGE RINGLER: Yeah, no. That's fine. I'm assuming
4 at some point you're going to provide some schedules to me when
5 you go through the document production that'll corroborate
6 folks only working one day a week or two days a week, that it's
7 feasible and, you know, allegedly was accepted by Starbucks.

8 MR. GOODE: Well, Judge, I -- I will say, and this, I
9 -- I know I -- I probably sound awfully repetitive. A lot of
10 that evidence is in the Buffalo 1 record. It's already been
11 admitted in --

12 JUDGE RINGLER: I understand that. I understand
13 that.

14 MR. GOODE: So --

15 JUDGE RINGLER: But --

16 MR. GOODE: I -- I mean that -- that evidence is in
17 there. Testimonial --

18 JUDGE RINGLER: Right. But given that I said that
19 I'm not going to, you know, grab the Buffalo 1 record and
20 understood, plop it down on the desk and make it part of the
21 record.

22 MR. GOODE: Yeah.

23 JUDGE RINGLER: I'm -- I'm making mention of that to
24 you that at this point, and I might fully credit what our
25 witness says, or I might feel that there's a need for

1 corroboration in that regard. So that's just highlighting that
2 for you.

3 MR. GOODE: Thank you, Judge.

4 JUDGE RINGLER: Okay. All right.

5 MR. GOODE: Judge, I just make sure I did I move for
6 the admission of GC-14?

7 JUDGE RINGLER: You did.

8 MR. GOODE: Okay.

9 JUDGE RINGLER: I've got 14 admitted. I'm not sure.
10 Just make sure 14 is admitted. So we're good on that. All
11 right. Yeah.

12 (General Counsel's Exhibit 14 is admitted.)

13 MR. HAYES: No questions.

14 JUDGE RINGLER: No questions for you and Jencks
15 statement.

16 MR. GOODE: So Judge, I have I have an email
17 submitting a -- which is partial Jencks. I have a five-page
18 affidavit. I have a 15-page affidavit. Those were submitted
19 in this case.

20 I also have this witness's affidavit from Buffalo 1
21 or those cases that's 53 pages long. It's not -- I don't think
22 there's much in here that's germane to the testimony, but
23 again, I -- I'm doing it.

24 JUDGE RINGLER: Yeah. I'll --

25 MR. GOODE: So I -- again, I think this is a -- this

1 is an affidavit that respondent has as part of the -- the
2 district court filing.

3 JUDGE RINGLER: You're satisfied, you've got that and
4 you've looked at that. Okay. So then you could hold back on
5 the Buffalo 1.

6 MR. GOODE: Okay.

7 JUDGE RINGLER: They have that.

8 MR. GOODE: Okay. So then -- then in fact I've got
9 15, approximately 21 pages.

10 JUDGE RINGLER: Yeah. And when you talk about
11 Buffalo 1, you obviously didn't litigate a constructive
12 discharge in Buffalo 1.

13 MR. GOODE: Not with this witness.

14 JUDGE RINGLER: Not with this witness.

15 MR. GOODE: With other witnesses.

16 JUDGE RINGLER: With other witnesses. Okay. I -- I
17 understand.

18 MR. GOODE: Yeah.

19 JUDGE RINGLER: Okay.

20 MR. GOODE: I think one other. if I'm not mistaken,
21 one other witness.

22 JUDGE RINGLER: All right. So let's see what time
23 we've got. So we've got 2:09, so why don't we reconvene at
24 2:30. Does that work?

25 MR. BALSAM: I'll let you know if that doesn't.

1 JUDGE RINGLER: Yeah. If it doesn't, I'll give you a
2 little more time. That'll be more than fine. So we can go off
3 the record until that time.

4 THE WITNESS: Okay.

5 JUDGE RINGLER: Feel free to stretch your legs, get a
6 drink of water or whatever. Just don't discuss your testimony
7 with it.

8 (Brief Recess at 2:09 p.m./ Reconvened at 2:30 p.m.)

9 JUDGE RINGLER: Okay. We're back on the record.

10 CROSS EXAMINATION

11 BY MR. BALSAM:

12 Q. Could you turn your attention to GC Exhibit Number 13? So
13 that I understand that GC Exhibit Number 13 reflects the dates
14 on which you were either scheduled to work and -- and or
15 worked?

16 A. Yes.

17 Q. Okay. And in this timeframe, which is GC Exhibit 13, how
18 many days did you actually work at Starbucks?

19 A. Two --

20 Q. For the shift at Starbucks.

21 A. You mind if I just count?

22 Q. Yeah, please.

23 A. Okay. 14. The one on the 18th wasn't punched because I
24 took it before I'd worked it.

25 Q. And how many days were you scheduled to work over that

1 three and a half months timeframe?

2 A. Sorry, I'm going to count again.

3 Q. Of the 14 days that you worked, how many you -- how many
4 days did you schedule?

5 A. All of them.

6 Q. You were -- you weren't scheduled every single day, I'm
7 saying of the --

8 A. Oh.

9 Q. I'm sorry. EC exhibit 13 reflects the days you were
10 scheduled, but it also shows the days you actually punched in
11 work to shift.

12 A. Yes.

13 Q. Correct? Of -- in GC Exhibit 13. How many days were you
14 scheduled but you didn't work?

15 A. Oh, do you mind if I count? 19. And then my two weeks,
16 or my last shift was the 18th, so it would be more if you
17 counted that last week after my last day.

18 Q. And on those 19 days that you did not work, isn't it true
19 that it was your responsibility to find coverage for those
20 shifts?

21 A. Depends on how you consider that.

22 Q. Is there a Starbucks policy that requires partners to
23 obtain coverage for shifts in which they were not -- they're
24 not able to cover?

25 A. Yes. But the fact that my availability was different does

1 impact that.

2 Q. But the answer is that if you were scheduled to work on
3 these 19 days and you knew that you were not able to obtain --
4 to work it, you had to obtain coverage, correct?

5 A. Yes.

6 Q. And by virtue of your failing to obtain coverage for, I
7 think you said 80% of the shifts, am I right in that assessment
8 of your testimony --

9 A. Approximately.

10 Q. -- prior? I think you said you got coverage for about
11 20%. Is that right?

12 A. I believe so, yeah.

13 Q. Using math it would be 80% --

14 A. Yes.

15 Q. -- you did not correct? By virtue of your failing to
16 obtain coverage, that necessarily has a negative impact in the
17 operations of the Elmwood store, correct?

18 A. I disagree with the characterization.

19 Q. Why is that?

20 A. Because I was communicating to my manager that I was not
21 available to work those shifts and she was giving me no option
22 to not be scheduled for those shifts.

23 Q. But that was my question. My question is by virtue of
24 your failing to appear for a shift in which you're scheduled,
25 that necessarily resulted in operational challenges for the

1 individuals in that store on that particular day, correct?

2 A. I mean, yes. A call off means that there's short
3 staffing.

4 Q. And isn't it true that you were able to reduce your
5 availability from four days per week to three days per week,
6 correct?

7 A. Yes.

8 Q. Okay. And when did you reduce your availability from four
9 days to three days?

10 A. I think it's, I think it was February, but it's a little
11 bit --

12 Q. February of '22?

13 A. I believe so.

14 Q. And that was post the campaign?

15 A. Yes.

16 Q. You mentioned the Union campaign. And you mentioned that
17 you had multiple conversations with your manager, and in
18 particular Merley, about your request to reduce your
19 availability from three days per week to one to two days per
20 week, correct?

21 A. Yes.

22 Q. And each time when you had that conversation, Merley said
23 that due to operational challenges at the store, she was not
24 able to reduce her availability; isn't that true?

25 A. That wasn't the reason that she gave every time.

1 Q. What was the reason she gave?

2 A. It varied. Sometimes she would say, you know, that other
3 partners were working more hours. And I would try to bring up
4 examples of partners who had worked one or two days a week and
5 she would be like, I can't talk about other partners.

6 I'm only talking about you. Or I can't talk about
7 something before I came into the store. And I was like, okay,
8 but you just came into the store. So there's other examples.
9 And so it wasn't always operational. Sometimes it was, you
10 know --

11 Q. But isn't that -- what you just described to me in
12 response to my question, isn't that an operational issue that
13 affects the store, which is the reason she could not obtain,
14 give you the availability you wanted?

15 A. I don't believe so, because when I would try to address
16 the operational concerns, which were that there weren't enough
17 partners, and by saying that I would work my scheduled shifts
18 until we got more partners and it resolved the operational
19 problems, she still said absolutely not. So I think the --
20 that wasn't operational.

21 Q. So your solution to the operational issues that your store
22 manager informed you about was for that store to hire more
23 baristas?

24 A. She said that we needed to hire more baristas.

25 Q. Right. But at the time that you were in fact seeking to

1 reduce your availability, they had not at that time hired more
2 baristas, correct?

3 A. Right. So I was saying I would work that until we did.

4 Q. All right. But -- so there -- they did not go. The
5 staffing levels at that particular time when you sought to
6 reduce your availability has not since that you really could
7 have accommodated your request to give you eligibility,
8 correct?

9 A. I think we're going in a circle a little bit because like,
10 yes, but I acknowledge that that was an issue and offered to
11 keep working until it was resolved and then have my
12 availability after that point that it was resolved. And she
13 still said that was out of the question.

14 Q. Ms. Brisack, isn't sure that you did in fact continue to
15 work for that period of time?

16 A. The one day a week.

17 Q. Isn't it true that you continued to work that period of
18 time?

19 A. Yes.

20 Q. Right. And then you decided to voluntarily resign your
21 employment, correct?

22 A. It was an untenable position, so I don't think it was
23 voluntary.

24 Q. Let's talk about this untenable position. So we just
25 established that in a three and a half month period, you worked

1 a total 14 days, correct?

2 A. Yes.

3 Q. And you called off 19 days.

4 A. Called off or found coverage.

5 Q. Or found coverage. What about that made your working
6 environment untenable?

7 A. It was designed to make it as stressful as possible, not
8 just for me, but for my coworkers. So it was putting that
9 strain on me to call off or find coverage and putting me in
10 that situation and then putting my coworkers in the situation
11 of being short staffed and you know, having me, you know,
12 appear responsible or having people be told that I was
13 responsible which, you know, was driving a wedge between me and
14 my coworkers who I wanted the best for.

15 Q. But Ms. Brisack, you were responsible for the operational
16 issues that were caused by virtue of the fact that you had an
17 approved reduction of availability to three days and you failed
18 to report to work on the days that you were scheduled, correct?

19 A. After I repeatedly --

20 Q. Correct?

21 A. It's more complicated than a yes or no.

22 Q. It's not, it's a yes or no answer.

23 MR. GOODE: Objection, Your Honor.

24 JUDGE RINGLER: Well, I would permit the witness.

25 MR. BALSAM: This is cross examination.

1 JUDGE RINGLER: Well, but if a yes or no in her
2 opinion is not an accurate answer and she's got to clarify it,
3 I'll -- I'll allow her to clarify. Is that your position that
4 you can't justly say yes or no?

5 THE WITNESS: Yes.

6 JUDGE RINGLER: Okay. So go ahead.

7 BY MR. BALSAM:

8 A. So I think it wasn't could you repeat the part? Sorry.

9 Q. You were the reason why there were operational issues by
10 virtue of the fact that you were scheduled for three days per
11 week, but chose not to report to work on those three days?

12 A. I disagree with that because the manager knew that I
13 wouldn't be able to go to work on the days that I was being
14 scheduled because I'd informed her that I wasn't available when
15 she first denied my availability.

16 I did work the three days after you know, I had been
17 -- after my availability should have gone into effect. And
18 then, you know, I said it was untenable. I couldn't keep doing
19 that.

20 Q. So it wasn't the working conditions that were untenable
21 the fact that you were unwilling to reduce your availability?

22 A. It was the fact that I couldn't keep calling off and
23 putting my coworkers in that strained position because it was
24 so intense on them and it was driving a wedge between, you
25 know, my relationships with coworkers and their perception of

1 me and the Union.

2 Q. Now you also testified by other partners at the Elmwood
3 store who had what I would call limited availability.

4 A. Yes.

5 Q. Correct?

6 A. Yes.

7 Q. And you mentioned two names that I recall. Kellen Higgins
8 and Michelle Eisen. Correct? You mentioned someone else, and
9 I didn't catch the name. Who was the other individual you
10 mentioned?

11 A. Tiernan.

12 Q. And that -- was that prior or after August of '21?

13 A. Prior.

14 Q. Prior. Okay. And now at the time that you sought to
15 reduce your availability to one day, but also it would be a
16 possibility of making a two, Michelle and Kellen also had very
17 limited availability at that point in time, correct?

18 A. I'm -- I believe so. I can't remember when Kellen was
19 also scheduled.

20 Q. Prior to -- so prior to your request to reduce your
21 availability to one but maybe two days, Michelle and Kellen
22 already had such an availability, correct?

23 A. Yes.

24 Q. And at that point in time, when you mentioned to Merley
25 that there were other partners at that store who I limited

1 availability, isn't it true that Merley told you that again,
2 due to operational needs, we could not, or Starbucks could not
3 accommodate your limited availability request?

4 A. Then again, as stated I offered to keep working the shift
5 until we got more partners and that was also a no. Also, I
6 forgot Josh Mendez also had limited availability.

7 Q. And who is Josh Mendez?

8 A. Another Elmwood partner who had one or two days a week
9 availability in fall '21.

10 Q. And now, so that was prior to your request to reduce your
11 availability to one day? Remind me, when did you tell Merley
12 that you were willing to work two days until such time as she
13 was able to hire a more individuals to work at --more partners
14 to work at the Elmwood store?

15 A. So it was two different offers. One was that I could, you
16 know, do one or two days depending. The other one was that I
17 would work all three days until we hired more partners. I kept
18 repeating those possibilities throughout the summer. So I
19 don't remember exactly when I said those, but both of those
20 were things I kept repeating in discussions with her.

21 Q. But Ms. Brisack, you didn't work two days at any point in
22 time from at least my recollection, if I'm reading this
23 correctly at all throughout the summer. So the, the
24 representation you made to Merley wasn't even true, correct?

25 A. No. I mean, had we agreed on something verbally that

1 would've been different? Or like had I had an approved
2 availability that reflected that, but Starbucks had allowed
3 people to work one day a week.

4 So I was trying to be allowed to work one day a week
5 and I was open to working two days a week if needed, or to
6 working more until we hired partners. But I wanted clarity in
7 the situation and I kept being told that none -- all of those
8 things were out of the question.

9 Q. All right. But even so, you did not work at all any two
10 days from at least June over to the time that you decided that
11 voluntarily resign your employment, correct?

12 A. That's correct.

13 Q. And Ms. Brisack, to confirm Starbucks policy requires you
14 that not listing your desire to work less -- less time, you're
15 required to work on the days in which you're scheduled,
16 correct?

17 A. Yes. But I was never written up, right.

18 Q. Well, that's my next question. At no point in time were
19 you written up for those days?

20 A. No. Which was a --

21 Q. For which you didn't show up, correct?

22 A. Which was a departure from Starbucks policy.

23 Q. And I'm not --

24 A. Okay.

25 Q. No -- no point, correct?

1 A. No.

2 Q. Okay. So it wasn't a situation where by virtue of you
3 failing to appear at work that you were starting to receive
4 discipline as a result?

5 A. No.

6 Q. You also testified that you had multiple conversations
7 with Merley about your availability. Were these telephonic
8 conversations?

9 A. It was some in person and some by phone.

10 Q. Did you record any of these conversations?

11 A. No.

12 Q. No?

13 A. I don't believe so.

14 Q. You don't believe so? If you -- yes or no? Did you the
15 record or you didn't record?

16 A. I don't -- I don't remember. Because I recorded some
17 conversations in the past, but I don't believe I recorded
18 those.

19 Q. What did you do with the conversations you recorded?

20 A. They were -- some of them were in Buffalo 1, but I don't
21 believe that I recorded the early ones.

22 Q. Did you record the conversation in which you tendered your
23 resignation to Merley?

24 A. I don't believe so.

25 Q. Now, discussing the -- your wearing of the suicidal

1 awareness pin. Now, you testified that you wore this pin on
2 every shift from June through September of '22, and that you
3 were never told to take it off. Is that your testimony?

4 A. Yes.

5 Q. Isn't it true that you had a conversation with Merley
6 whereby she told you to take the pin off?

7 A. That was a conversation about other pins.

8 Q. Which other pins?

9 A. That happened, I believe in February, and it was about an
10 industrial workers of the world pin and another Union pin,
11 flight attendants Union pin. It wasn't about the suicide
12 awareness pin.

13 Q. And you're saying that conversation happened in February
14 '22?

15 A. Yes.

16 Q. Okay. And what did Merley tell you during that
17 conversation?

18 A. That I needed to take off the other Union pins. That you
19 could have one Union pin.

20 Q. Did you comply with that request?

21 A. Yes.

22 Q. And your testimony, I believe, is that Merley and Mindy
23 Walsh both saw you wearing the suicide awareness pin during the
24 time in which you worked, correct?

25 A. Yes.

1 Q. How many shifts did you work in which Merley and or Mindy
2 Walsh were present to see you wearing the suicide awareness
3 pin?

4 A. I don't remember the number, but on -- you know, they were
5 definitely present on several of the shifts and I was having
6 in-person conversations you know, about availability and other
7 things with Merley in particular. And at no point did the pin
8 come up.

9 Q. When did Merley become the store manager of Elmwood? I'm
10 sorry -- when did Mindy be -- Mindy become the store manager at
11 Elmwood?

12 A. I believe late September, right after I left.

13 Q. Okay. And then Merley was the store manager prior to that
14 point?

15 A. Yes.

16 Q. And we've established that you've worked a total of 14
17 days.

18 A. Yes.

19 Q. Correct? So it's not more than 14 days in which either
20 one of these managers saw you wearing a suicidal awareness pin,
21 correct?

22 A. No.

23 Q. Would you estimate it's less than 10 times --

24 A. I'm not sure.

25 Q. You don't know?

1 MR. BALSAM: I have nothing further.

2 JUDGE RINGLER: Okay. Redirect?

3 REDIRECT EXAMINATION

4 BY MR. GOODE:

5 Q. Jaz, did you in the -- the summer of 2022, did the store
6 managers have to approve you getting coverage for a shift that
7 you weren't going to make?

8 A. Yes.

9 Q. Could you force another partner to cover your shift?

10 A. No.

11 Q. Was it unusual, Jaz, that you didn't receive discipline
12 the days that you called out?

13 MR. BALSAM: Objection, as to deter -- vague,
14 unusual.

15 JUDGE RINGLER: I -- I think -- do you understand
16 what he means by unusual?

17 THE WITNESS: Yes.

18 JUDGE RINGLER: Okay. Go ahead. You can answer.

19 BY MR. GOODE:

20 A. It was not standard.

21 Q. What do you mean by that?

22 A. Normally, calling off for a reason that was not illness,
23 especially that frequently would've been met with some kind of
24 discipline.

25 Q. You were asked on cross about I think operational needs of

1 Starbucks. How would a -- scheduling somebody for shift they
2 can't make help operational need at Starbucks?

3 A. It wouldn't -- it would put an extra burden on other
4 partners because you know that they're going to be short-
5 staffed. You know, if someone's telling you that they won't be
6 there, then you know, you're planning to have that gap in the -
7 - in the coverage.

8 MR. GOODE: I have nothing further, Judge.

9 JUDGE RINGLER: All right.

10 MR. BALSAM: Judge, recross.

11 JUDGE RINGLER: Okay.

12 RECROSS EXAMINATION

13 BY MR. BALSAM:

14 Q. You testified that it wasn't standard for you not to get
15 disciplined put down to report to work, but isn't it true that
16 from the period in time that would -- from the period in time
17 when you requested to reduce your availability to the time of
18 your voluntarily, the voluntary resignation that both your
19 store manager and your district manager were trying to work
20 with you to figure out this availability issue?

21 A. I don't believe they were trying to work with me.

22 Q. Didn't you have multiple conversations with Michaela
23 Murphy from that -- from June through -- through September with
24 respect to your availability?

25 A. I think I had one conversation.

1 Q. And the substance of that conversation was trying to
2 figure out a way for you to either increase your availability
3 or come up with other solutions; is that correct?

4 A. They -- they weren't open to other solutions because I was
5 trying to propose other solutions, so I don't think that there
6 was an intention of working with me on it. I think, you know,
7 I was trying to have conversations and I don't think that there
8 were, you know, solutions that they were open to.

9 Q. But the point is that they were in fact having
10 conversations with you from June through September about the
11 issue -- about the availability issue, correct?

12 A. Yes. But I mean, also I had to try to keep making those
13 conversations happen in most cases.

14 Q. Right, but isn't, that's possibly the reason why you're
15 not issued discipline because Starbucks was actually trying to
16 work with you to resolve the availability issue?

17 A. I don't believe they were trying to work with me.

18 Q. Starbucks never fired you.

19 A. I think that the point was to try to make it an impossible
20 situation on me and on my partners in Elmwood.

21 Q. Based on what?

22 A. Deliberately short staffing the store and driving a wedge
23 between me and my coworkers.

24 Q. If anybody drove a wedge between you and your coworkers,
25 it's you who failed to report to work; isn't that true?

1 A. I don't agree with that.

2 Q. And just so I'm clear, the reason why you needed to change
3 your availability was because you were actively working for the
4 Union full-time, correct?

5 A. In part.

6 Q. And in fact, you were working for the Union prior to you
7 commencing employment with Starbucks, correct?

8 A. Yes.

9 Q. And in fact, the only reason why you started working for
10 Starbucks was to organize Starbucks?

11 MR. GOODE: Objection. This is well outside direct
12 and redirect, Judge.

13 JUDGE RINGLER: Sustained.

14 MR. BALSAM: Nothing further.

15 JUDGE RINGLER: Set? Nothing from -- set. Okay.

16 Thank you very much. Please do not discuss your testimony with
17 anyone. You're excused.

18 THE WITNESS: Thank you. So I can remove the --

19 JUDGE RINGLER: You can remove that. Just turn it --

20 THE WITNESS: Thank you.

21 MR. GOODE: Judge --

22 JUDGE RINGLER: All right.

23 MR. GOODE: May we -- I believe I have my next
24 witness here. May we -- we have 10 minutes before --

25 JUDGE RINGLER: Sure. Absolutely. We'll go off for

1 let's see 3:10. We'll reconvene.

2 (Brief Recess at 2:53 p.m./ Reconvened at 3:09 p.m.)

3 JUDGE RINGLER: All right. On the record, please.

4 All right, we're back on.

5 MR. GOODE: Judge, at this time I'll offer GC Exhibit
6 1, WWW, that's quadruple W. Which is Respondent answer from
7 the defenses to the consolidated complaint that was
8 inadvertently omitted from the formal papers.

9 (General Counsel's Exhibit 1 is identified.)

10 JUDGE RINGLER: All right. Any objection to --

11 MR. BALSAM: No, Judge.

12 JUDGE RINGLER: All right. So GC-1, WWW is
13 admitted. All right.

14 (General Counsel's Exhibit 1 is admitted.)

15 MR. BALSAM: Judge, before we go further, I want to
16 revisit the scheduling issue again. Upon further consultation
17 with my colleagues, some have some conflicts during the time in
18 which we --

19 JUDGE RINGLER: Okay. So that May 10th is not good.

20 MR. BALSAM: Yeah. So I was wondering, and this is -
21 - maybe we can table this and you can look -- get back to us.
22 You did mention that everyone seemed to be available on the
23 15th to start, which is that Monday.

24 JUDGE RINGLER: Okay. So that -- that would just be
25 a, a one week deal there, right?

1 MR. BALSAM: But then, I think you say that if
2 necessary you could go into the Monday and potentially the
3 Tuesday.

4 JUDGE RINGLER: I did. I did say that. Okay. Let
5 just pull the calendar.

6 MR. BALSAM: We are fairly confident that we could
7 complete our case in chief if we went at least till the 23rd.
8 So that --

9 JUDGE RINGLER: So you are proposing May the 15th to
10 at the latest, the 23rd?

11 MR. BALSAM: That's correct, Judge.

12 JUDGE RINGLER: All right. Let me take a look at
13 that. Okay. Just figure out if I can make that work.

14 MR. BALSAM: And -- and I -- and I -- okay. I'm not
15 going to guarantee it, but I -- I'm pretty fairly confident
16 that we will not have to revisit this again. We just have a
17 lot of different players and people and navigating a different
18 schedule is challenging navigating a different schedule is the
19 challenge.

20 JUDGE RINGLER: Understood. Understood. Now, just
21 to confirm, that was good on your end?

22 MR. GOODE: I -- I think so, Judge. I mean, we would
23 -- we would prefer to go earlier, but that's up to Your Honor.
24 So I -- I -- I don't believe --

25 JUDGE RINGLER: But you're available?

1 MR. GOODE: I believe we have availability.

2 JUDGE RINGLER: Okay. So we'll -- let me take a look
3 at that. We'll -- we'll figure that out.

4 MR. BALSAM: Thank you, Judge.

5 JUDGE RINGLER: All right. Do you have a Plan B if
6 we can't do that, propose a Plan B to me as well, just in case.

7 MR. BALSAM: A Plan B as we go -- I mean, you have a
8 conference, Judge, you said on the --

9 JUDGE RINGLER: I could probably shift that around if
10 I had to. You're talking about June now?

11 MR. BALSAM: No, I was talking about the May date. I
12 think you said you had conflicts the earlier part of May, and
13 so we started May 10th. The problem is that my -- my co-
14 counsel, Mr. Walters, is -- has prior engagements that week,
15 and then by paralegal, Ms. Christensen, who is indispensable to
16 this team has also conflicts.

17 And so I -- I really do think for our sake that we
18 need to chat in present. I mean the -- the alternative to push
19 it into June, which I'm not entirely happy about, but it can
20 happen if we potentially do it after my prior trial, which is
21 scheduled for the first week. So that would be in the second
22 week of June.

23 JUDGE RINGLER: All right. So June the 12th is -- is
24 Choice B. Now, I see that heads are going back and forth for
25 the GC. You're -- you're obviously not crazy about that idea.

1 No.

2 MR. BALSAM: Judge, we -- we would -- I mean, our
3 objective is to get this completed as quickly as possible.

4 JUDGE RINGLER: I know.

5 MR. BALSAM: And I don't mean to be difficult or make
6 this complicated, but, you know, we have a trial team, every
7 person on our trial team serves a purpose and to not have
8 people here would be a challenge for us.

9 JUDGE RINGLER: Got you.

10 MR. BALSAM: Saying that we're -- we're doing our
11 best, but --

12 JUDGE RINGLER: Okay. Okay. Let's -- let's look at
13 the --

14 MR. BALSAM: It doesn't matter. We didn't --

15 JUDGE RINGLER: -- the 15th and the 23rd. And I'll -
16 - I'll get back to you folks on that.

17 MR. BALSAM: Great. Thanks, Judge.

18 JUDGE RINGLER: Okay. All right. Who's next on the
19 hit list for lack the better term? Okay. All righty. Big 10
20 sweatshirt. I see. Okay. All right. So we're -- we're still
21 on the record. So if you could state your name for the record,
22 please, and spell it for us first.

23 THE WITNESS: Danka Dragic, D-A-N-K-A D-R-A-G-I-C.

24 JUDGE RINGLER: All right. And please raise your
25 right hand.

1 (Whereupon,

2 DANKA DRAGIC,

3 was called as a witness by and on behalf of the General Counsel
4 and, after having been duly sworn, was examined and testified,
5 as follows:)

6 JUDGE RINGLER: Okay. And what complaint paragraph
7 so we can now hear from this witness?

8 MR. GOODE: 9I --let's see. This -- this witness is
9 also the subject of -- I believe I have written down 11E
10 through H, Judge.

11 JUDGE RINGLER: Okay. So you've got 9I and 11E
12 through H. All right. Okay.

13 DIRECT EXAMINATION

14 BY MR. GOODE:

15 Q. Do you work for Starbucks?

16 A. I do.

17 Q. Okay. And what store do you work at?

18 A. Genesee Street.

19 Q. When did you begin working for Starbucks?

20 A. In the late summer or fall of 2019.

21 Q. Is Genesee Street considered your home store?

22 A. Yes.

23 Q. Have you have you had any other home stores in your time
24 with Starbucks?

25 A. No.

1 Q. Do you currently still work for Starbucks?

2 A. I do.

3 Q. Who is your store manager?

4 A. Julie Wrobel.

5 Q. Danka, do you wear any pins while at work?

6 A. I do. I wear my Union pin and then some other Starbucks
7 pin.

8 Q. How long have you been wearing your -- your Union pin?

9 A. Since the day that we launched our campaign.

10 Q. And was that in 2021?

11 A. Yeah. 2021 August. Late August, September.

12 Q. Okay. Can you describe that pin?

13 A. It's a pin. It has a shaker on it. It's like fist up in
14 the air.

15 Q. What color is it?

16 A. Green.

17 Q. I'm showing you what's been marked for purposes of
18 identification as GC Exhibit 15. Can you take a look at this
19 document? Let me know when you're done.

20 A. Okay.

21 Q. Can you also flip it over and take a look at the back?

22 A. Okay.

23 Q. Do you recognize this document?

24 A. Yes. I recognize this document.

25 Q. What is it?

1 A. This is my final written warning that I received in August
2 of 2022.

3 (General Counsel's Exhibit 15 is identified.)

4 Q. Okay. If you flip it over on the back, is that your
5 handwriting?

6 A. No.

7 MR. GOODE: Okay. Move for the admission of GC
8 Exhibit 15, Judge.

9 JUDGE RINGLER: Any objection to 15?

10 MR. BALSAM: No objection.

11 JUDGE RINGLER: All right. 15 is admitted
12 (General Counsel's Exhibit 15 is admitted.)

13 MR. GOODE: Danka, are you aware of the -- well,
14 scratch that. Strike that, Judge.

15 BY MR. GOODE:

16 Q. Danka, I'm going to direct your attention to the last --
17 where it says Ethics and Compliance investigation. Do you see
18 that?

19 A. I'm sorry, what was that?

20 Q. In the paragraph that begins, more specifically at the
21 very end.

22 A. Okay. Yeah.

23 Q. Do you -- do you recall at any point in -- in July, 2022
24 receiving a phone call from Ethics and Compliance?

25 A. I did on like July 5th, I think.

1 Q. Okay. Were you working when you received that call?

2 A. No.

3 Q. Okay. Tell us about the -- how that call happened.

4 A. I had a tattoo appointment, so I was at my tattoo. I got
5 the call, started off, it was a man, I don't remember his name.
6 He told me that there was an investigation based off of
7 something that I had said and was going to ask me a couple of
8 questions about that.

9 He kind of led into a couple of questions, like
10 whether or not I had made a comment about me being involved in
11 a threesome on the floor. I told him that that's not what
12 really was said and not how it happened.

13 The phrasing was more along the lines of not being
14 any couple's third, it could be like a date or a dinner or just
15 being interested in people.

16 So that was really what the comment was more about,
17 saying it was going to be like the kiss of death for that
18 relationship. It was just in like a casual conversation we
19 were having on the floor.

20 Q. Okay. Well, let me stop you there. So let's -- let's
21 talk about that.

22 A. Mm-hmm.

23 Q. So this conversation you mentioned, when did that occur?

24 A. Earlier in June, I think.

25 Q. Okay.

1 A. Yeah.

2 Q. And where were you at when this conversation was taking
3 place?

4 A. I was inside -- I was on the floor at the store, kind of
5 like in the corner by the drive through. We were just
6 overseeing, like waiting to see what numbers were coming up for
7 averages, but was there and the conversation was had over the
8 headset.

9 Q. Okay. Who was present at the store that day?

10 A. We had a couple of people. The store manager was present
11 that day. She was working warming station on the oven. I had
12 like two other girls who were working with me, Maddie Bayer,
13 Abigail Bayer, they're -- they're sisters.

14 I remember Jasmine Speed was working, Reese Swamp was
15 working. We had a lot of people who were just always working
16 that shift with us.

17 Q. Okay. And then take me through what you recall of any
18 conversation you were having that day.

19 A. I don't really remember fully. It was something -- we
20 were just talking kind of about relationships, about
21 relationship dynamics, so dating in Buffalo or like something
22 along those lines.

23 Where Julie started, she made a couple of remarks
24 about her like recent Tinder matches and Tinder dating and how
25 that's been disastrous and how some of the things that she had

1 like been experiencing with men have been disastrous.

2 Maddie made some kind of comment about kind of the
3 kind of picture she was going to use on her profile on Tinder.
4 And that kind of conversation started what I had said, which
5 was, oh, the last time I was on Tinder, I matched with a
6 couple, like all I'm saying is don't be a third. Don't be
7 somebody's sum couple spirit. It'll be the kiss and death for
8 the relationship.

9 Q. At the time -- well, I think -- was this conversation had
10 over headset?

11 A. Yeah.

12 Q. Was Julie Wrobel wearing the headset at this time?

13 A. Yes.

14 Q. Did anybody speak to you in that moment about what you had
15 said?

16 A. No, just like engaged in conversation with me, but not
17 like, about what I had said.

18 Q. Okay. Did -- did Julie tell you, you shouldn't have said
19 that?

20 A. No.

21 Q. Did anybody say that your comment had made them
22 uncomfortable?

23 A. Nobody said anything to me about my comment. It seemed
24 like it was a passing kind of thing. Nobody talked about it
25 after.

1 Q. The subject matter of that conversation --

2 A. Mm-hmm.

3 Q. -- had that come up before in prior conversations at work?

4 A. Oh, yeah. I mean, this is just a group of mostly women
5 who are working together who are around the same age as between
6 like, let's say 19, 20 and like 25, 26, 27.

7 So it's a lot of friendships that are inside and
8 outside of work. A lot of the times people are just catching
9 up on what they've done on the weekends. So talking about
10 dating, talking about restaurants, or like the latest things
11 they've been doing.

12 MR. WHALEN: Objection. The question was whether the
13 subject matter had come up before.

14 JUDGE RINGLER: I think she's replying to that. So
15 go ahead.

16 BY MR. GOODE:

17 A. Yeah. So yes, those kind of conversations have been had.

18 Q. How often do those type of conversations occur?

19 A. I mean, I wouldn't say like -- I -- I'm not 100% sure. I
20 would say like, I don't know. I hear them a lot on Mondays
21 when I come back from the weekend. Definitely later on in the
22 week when you're discussing what you're going to get up to.

23 Q. Do they occur weekly then?

24 A. Yeah.

25 Q. And how often is Julia part of those conversations?

1 A. I know this is one of the more memorable ones, but she's
2 often in conversations about dating and those kinds of things.

3 Q. I'm going to return you to your phone call with partner in
4 ethics. Can you -- can you recall how the individual
5 identified themselves in that -- in that phone call?

6 A. Told me this was like the partner, Ethics and Compliance.
7 I don't remember his name, but that he was investigating this
8 claim made by somebody that I had made -- that I was making
9 inappropriate comments of that type.

10 Q. Did he tell you -- did this -- this individual over the
11 phone, do you recall the person's name?

12 A. No, I don't recall their name. It was a man, but I don't
13 recall his name.

14 Q. Okay. Did he tell you how many events he was
15 investigating?

16 A. He didn't tell me how many events. It was pretty broad.
17 What he said was just, I'm investigating like this thing, that
18 comment was made. He'd directly asked me whether I had made a
19 comment about being involved in a threesome and there was no
20 other direct questioning that I can remember at this time.

21 I remember clarifying broadly that these kind of
22 conversations were always kind of occurring at Starbucks. And
23 even prior to my time, I remember on some of my very first days
24 at Starbucks, hearing things like about dating or whatever it
25 was.

1 Q. Did he -- I -- so -- so this -- what was approximately the
2 date that this phone call occurred?

3 A. On the 5th of July.

4 Q. Okay. Now, do you recall working following July 5th?

5 A. Yes, I worked.

6 Q. Do you -- do you remember approximately what days you
7 worked?

8 A. I -- I work a lot of weekdays at the time, a Saturday
9 usually. So like any time from probably -- let's say like the
10 7th, 8th, 9th, 10th, maybe 11th, 12th, like any of those days I
11 would've been working.

12 Q. Okay. What about after the 12th?

13 A. I was out of the country after the 12th. On the 13th I
14 had a flight to Serbia. So I was not working that day.

15 Q. And how long were you out of the country for?

16 A. Until about August 3rd or 4th.

17 Q. And following your return, did you go back to work?

18 A. Yes. I worked on the -- I think I worked on the 5th.

19 Q. Okay.

20 A. Of August.

21 Q. On your first day back, did Julie speak to you about that
22 conversation in June?

23 A. No.

24 Q. Do you remember -- did you work the following day, August
25 7th?

1 A. I think so, yeah.

2 Q. Was anything discussed to you with respect to that
3 conversation in June on August 7th?

4 A. No.

5 Q. Okay. Where were you when you received this corrective
6 action form?

7 A. In the back of house at my store.

8 Q. What did that mean? In the back of the house.

9 A. Basically just in the back room, kind of like where our
10 supplies are.

11 Q. Were you working that day?

12 A. I was working that day. I just had -- I had just clocked
13 out. I was grabbing my stuff and Julie stopped me. Her --

14 MR. WHALEN: Objection. The question was -- are you
15 working -- were you working that day?

16 JUDGE RINGLER: Sustained.

17 MR. GOODE: Okay.

18 JUDGE RINGLER: You can ask a follow up.

19 BY MR. GOODE:

20 Q. What happened next?

21 A. Okay. Julie and another manager named Michaela, basically
22 just handed over this write-up, said, we have to give you this.
23 Julie said, you know, I -- sorry, I can't do anything about it.
24 My hands are tied.

25 This is above me and above Tiffany. This is coming

1 from -- or yeah, I think she said it was coming from Ethics.

2 So higher up. She was just told to give it to me.

3 Q. Who is Tiffany?

4 A. At the time she was the district manager.

5 Q. Do you know Tiffany's last name?

6 A. Mann. Two Ns.

7 Q. What is, if anything, did say in response?

8 A. Kind of briefly looked, said, I just clocked out, so I'm
9 going to like look over this. I looked at it, I didn't really
10 agree with what I had said -- what I saw. I told her I wasn't
11 going to sign it because I wasn't in agreeance.

12 Julie says, it doesn't matter if you sign it or not,
13 it's going to go on your file. And I said, okay. I could go
14 on the file unsigned. And then I went home that day.

15 Q. Did you work the following day?

16 A. Yeah. I think I worked following -- or maybe I didn't.
17 I'm not sure. I'm sorry.

18 Q. Okay. Did you have any further conversations with Julie
19 about the final written warning?

20 A. Yes. When I went to give her my subpoena for one of the
21 trials that I was going -- in last year I made a mention to her
22 about it and said, you know, it's so strange that I got this.
23 It came down so randomly, like, especially in the conversation
24 you were a part of.

25 I felt like that was weird. And she was kind of

1 like, yeah, I know. That's all I got for you. Like my hands
2 were tied. Told you what -- I told you what I told you. So --
3 Q. Do you recall any further conversation with Julie in that
4 -- in that conversation?

5 A. We did discuss how I found out that the -- like the
6 partner who reported me, she was telling a lot of people at the
7 store that she did once I left. I don't know if she was
8 feeling like safe about telling everybody everything and what -
9 - what -- whatever it may have been, but --

10 MR. WHALEN: Objection, hearsay about what she was
11 telling others.

12 THE WITNESS: Okay.

13 MR. GOODE: It is not being offered for the truth.

14 JUDGE RINGLER: Okay. If it's not, then go ahead.
15 You can continue.

16 MR. GOODE: You can continue.

17 THE WITNESS: And one of the partners who was at the
18 strike, her name was Madd or their name -- their name was Madd,
19 they were friends with them. They kind of gave this like,
20 backside story of it and let us know that Jocelyn, this partner
21 had a little bit of -- I don't know.

22 We had maybe some drama at the store. I didn't -- I
23 wasn't cued in on this, but she just didn't like me very much.
24 There was a couple of instances.

25 MR. WHALEN: Objection, Your Honor. This is hearsay

1 as to what was said.

2 JUDGE RINGLER: Yeah. Sustained.

3 THE WITNESS: Okay.

4 JUDGE RINGLER: I think it's also not relevant at
5 this point.

6 BY MR. GOODE:

7 Q. Did Julie mention Jocelyn's name?

8 A. Yeah. She did. She told me that she wasn't supposed to
9 tell me anything about it or talk to either of us about it, but
10 she did ask me if I -- Julie asked me, you know, if I -- when I
11 talked to ethics, if I let them know about Jocelyn and like
12 some of the things that were occurring with Jocelyn at the
13 store. So -- which obviously, I -- I didn't because I didn't
14 know who made anything. I just -- I can only answer what I was
15 asked.

16 MR. WHALEN: Objection. The question was whether she
17 asked the name.

18 JUDGE RINGLER: State. We'll strike it after the
19 name.

20 BY MR. GOODE:

21 Q. What -- what, if anything, did Julie say about Jocelyn?

22 MR. WHALEN: Objection, hearsay.

23 MR. GOODE: No, this is coming from the store
24 manager. This is party admission.

25 JUDGE RINGLER: That's fine. You can answer.

1 THE WITNESS: I feel like I got a couple of it over.
2 Sorry.

3 BY MR. GOODE:

4 Q. What did -- what -- you can tell us again. What -- what
5 did Julie say about Jocelyn?

6 A. She said that she wasn't supposed to tell me anything
7 about her claim.

8 Q. Okay.

9 A. She asked me if -- oh, I already said that. Never mind.

10 Q. Okay. Are you aware of whether anybody else in that June
11 conversation was disciplined?

12 A. No, nobody else was disciplined.

13 Q. How do you know that?

14 A. I spoke to everybody who was on the floor with me that I
15 could remember.

16 Q. Were -- Danka, were you ever a point of contact for the
17 Union at the Genesee Street store?

18 A. Yes.

19 MR. WHALEN: Objection, relevance.

20 JUDGE RINGLER: Overruled. It's fine. Go ahead.
21 You can answer.

22 BY MR. GOODE:

23 A. Yes.

24 Q. Okay. Approximately when were you point of contact?

25 A. From like the start of the campaign, end of August, 2022

1 until probably about Feb -- or I'm sorry, 2021 until about
2 February of 2022, I would say at the very least.

3 Q. Okay. And what role did you have as being that point of
4 contact?

5 A. Getting a lot of information across, mostly what we were
6 doing in terms of bargaining or how it was going with like the
7 elections. Giving everybody as much information as I could.

8 Q. Were you involved in bargaining with the Employer?

9 A. Yeah. I was, while we were doing Zoom bargaining.

10 MR. GOODE: No further questions, Judge.

11 JUDGE RINGLER: All right. Anything for the Charging
12 Party?

13 MR. HAYES: No questions.

14 JUDGE RINGLER: Said as well. All right. So I'm
15 assuming we've got an affidavit.

16 MR. GOODE: I've got one in this case, Judge, that I
17 -- six pages five and a half of substance. And then again, a
18 prior affidavit that I don't -- I don't believe is related, but
19 printed off just in case. I believe this is one of the ones
20 that Respondent has as part of the federal district litigation.
21 But --

22 JUDGE RINGLER: Why don't you -- why don't you
23 provide it just to be comprehensive?

24 MR. GOODE: That one is 17 pages. This one -- for
25 this, the court case is five and a half.

1 JUDGE RINGLER: Okay. So I've got 3:35. We'll
2 reconvene at 3:55. Does that work for you or you want four
3 o'clock?

4 MR. WHALEN: 3:55 is fine.

5 JUDGE RINGLER: Okay. Okay. 3:55 it is. All right.
6 So we're going off the record until that time.

7 (Lunch Recess at 3:35 p.m./ Reconvened at 3:55 p.m.)

8 JUDGE RINGLER: And we'll start with cross as soon as
9 you let us know that you're ready to go.

10 MR. WHALEN: All right. I'm all set.

11 JUDGE RINGLER: Okay.

12 CROSS EXAMINATION

13 BY MR. WHALEN:

14 Q. Hi, Danko.

15 A. Hi.

16 Q. So you testified that you have been working in the Genesee
17 Street store since the fall of 2019?

18 A. Yes.

19 Q. And when you started, did you receive the partner guide?

20 A. Yes.

21 Q. And did you acknowledge the partner guide when you
22 received it?

23 A. I remember receiving something. I definitely signed it,
24 but I don't remember it being collected.

25 MR. BALSAM: It was marked as Respondent 17

1 BY MR. WHALEN:

2 Q. Danka. Do you recognize this exhibit?

3 A. Not so much, but I guess.

4 Q. Is this your name on the bottom left?

5 A. It is my name on the bottom. I think this is from an
6 onboarding process, so I signed a lot of things.

7 (Respondent's Exhibit 17 is identified.)

8 Q. And this would've been signed during --

9 A. Yeah.

10 Q. -- orientation, onboarding, and then the top it says Taleo
11 onboarding.

12 A. Yeah.

13 Q. And that would've been signed during the orientation?

14 A. Yeah.

15 MR. WHALEN: And, Your Honor, I move to move
16 Respondent Exhibit 17 into evidence.

17 JUDGE RINGLER: I -- I'm assuming same objection
18 regarding 17?

19 MR. GOODE: Can I --

20 JUDGE RINGLER: On the production issue? Go ahead.

21 MR. GOODE: -- voir dire real quick.

22 JUDGE RINGLER: Sure.

23 VOIR DIRE

24 BY MR. GOODE:

25 Q. Where it says can -- candidate's signatures, is that your

1 actual signature?

2 A. No, just typed.

3 Q. Did you type that in?

4 A. No, I don't think so. Not that I remember.

5 MR. GOODE: I -- I would object on that basis, Your
6 Honor.

7 JUDGE RINGLER: But you indicated that you did
8 onboarding kind of stuff and you entered your name in the
9 computer. I'm just trying to figure out how this would've been
10 generated.

11 THE WITNESS: Yeah, maybe. I guess. I don't know.
12 I remember getting -- I'm not sure. I -- I got a partner
13 handbook. I feel like that was in the partner handbook. Maybe
14 there was something at some point when I was on the computer
15 and then I was like, okay, I acknowledge. Or maybe that was
16 the acknowledgement or something.

17 JUDGE RINGLER: But you're not -- you're not certain?

18 THE WITNESS: I'm not certain. I'm sorry.

19 JUDGE RINGLER: Okay. I -- I'll -- I'll -- I'll
20 leave it at this. I'm going to reject R-17 currently, but
21 certainly --

22 MR. WHALEN: Can I ask one question, Your Honor?

23 JUDGE RINGLER: Yeah. Go ahead.

24 BY MR. WHALEN:

25 Q. Did you participate in the onboarding when you began

1 working at Starbucks?

2 A. Yeah.

3 Q. And was the onboarding conducted electronically?

4 A. Half and half. Half with my manager, half online.

5 Q. Did you sign anything in -- with a physical pen when you
6 first started during the onboarding?

7 A. I -- I think so. At least one thing. There was stuff
8 about -- I don't know. I -- I -- I think I did.

9 Q. Would you have acknowledged any documents with an
10 electronic signature when you first started onboarding?

11 A. I believe so, yes. On -- electronically, like through the
12 computer,

13 Q. Did you acknowledge any documents on your personal
14 computer?

15 A. No.

16 Q. When did you begin working for Starbucks? What date
17 exactly?

18 A. September like 8th, 13th, 14th. So second week,
19 September.

20 Q. So this date and the bottom middle where it says
21 8/28/2019, that would've been right around the time you started
22 working? Right before?

23 A. That would've been like that day that I came in to do
24 paperwork for starting employment.

25 Q. So you completed electronic onboarding.

1 A. Okay.

2 Q. And you acknowledged documents?

3 A. Yeah.

4 Q. Is it possible that you acknowledged this document?

5 A. Yes. I didn't say it wasn't possible. Just that I don't
6 fully recall.

7 Q. I move to admit --

8 JUDGE RINGLER: Well, I -- okay. I -- I think I'm --
9 I'm going to let this one in, given that it's, you started work
10 roughly on 8/28 of 2019.

11 THE WITNESS: September 18 was like one of my first
12 days.

13 MR. WHALEN: Your Honor, I'll also offer this as a
14 business record. It's kept in the partner file. It's been
15 kept in her partner file since she began working there.

16 MR. GOODE: Judge --

17 JUDGE RINGLER: But now I'm -- hold on one second.
18 Let me just finish my -- my thought on this. So you're saying
19 you didn't work on this date, August 28th, 2019?

20 THE WITNESS: I guess I feel like that I was
21 considering being there for like an hour to fill out this
22 paperwork? That's what --

23 JUDGE RINGLER: So this would've been when you
24 would've come to Starbucks to fill out this paperwork?

25 THE WITNESS: Yeah.

1 JUDGE RINGLER: Is that correct?

2 THE WITNESS: Yes.

3 JUDGE RINGLER: All right. And you signed several
4 things, though you don't remember this one electronically as
5 part of your onboarding process?

6 THE WITNESS: I presume?

7 JUDGE RINGLER: You presume? Okay. I -- I think
8 counsel, what we'll do is I'm going to put this on the side,
9 certainly through one of the, you know, Employer witnesses.
10 They can testify about the circumstances of how it's signed and
11 it'll -- it'll ultimately come in, I'm sure.

12 MR. WHALEN: Sure.

13 JUDGE RINGLER: But I think through this witness,
14 she's really not sure if she remembers it, so it wouldn't be
15 appropriate.

16 BY MR. WHALEN:

17 Q. Okay. Then Danka, I'll just ask you the basic question
18 that I asked earlier was, did you acknowledge -- did you
19 receive the partner guide when you started working?

20 A. Yes.

21 Q. Okay. And correct -- I apologize if -- if you testified
22 to this earlier, but what was your position when you first
23 started working at Starbucks?

24 A. A barista when I first started working at Starbucks.

25 Q. And you were promoted to shift supervisor?

1 A. Yes.

2 Q. Okay. Did you ever subsequently review the partner guide
3 during your partner -- during your -- during your time as a
4 partner at the Genesee Street store?

5 A. Intermittently.

6 Q. Okay. So I want to turn to the conversation that you had
7 in the store regarding the final written warning.

8 A. Sure.

9 Q. This -- the substance of the final written warning.

10 A. Mm-hmm.

11 Q. You testified that you had that conversation in the -- in
12 the store by the drive-through, correct?

13 A. Somewhere in that area, yeah. Along that corner, I
14 believe.

15 Q. And you were wearing a headset?

16 A. Yes.

17 Q. And in that conversation, you discussed something about a
18 threesome?

19 A. About being any couple's third, not necessarily in some
20 context like that.

21 Q. Were there any other comments you made?

22 A. No, not that day.

23 Q. And were there any other comments related to that -- that
24 -- part partner's third or couple's third that you mentioned
25 during that conversation?

1 A. I said, don't be any couple's third, it'll be the kiss of
2 death for their relationship.

3 Q. Right. And how many times did you say that?

4 A. Once

5 Q. There was no follow up?

6 A. No.

7 Q. And other partners could hear your conversation over the
8 headset?

9 A. Mm-hmm.

10 Q. And were there other partners within earshot who were not
11 wearing the headset?

12 A. I believe that everybody was wearing a headset around this
13 time.

14 Q. No customers?

15 A. No customers obviously, but like partners.

16 Q. How do you know there were no customers that could hear
17 your conversation?

18 A. Well, there -- we're having them discreetly. It's mostly
19 just whispering on a headset to each other.

20 Q. But were there any customers in the store during the time
21 you were having this conversation?

22 A. Not that I can recall.

23 Q. Okay.

24 A. There were people on the drive-through.

25 Q. Danka, are you aware of the policy and department guide

1 called the commitment to a respectful workplace?

2 A. Yes.

3 Q. And when you acknowledge the partner guide, you
4 acknowledge that -- or excuse me, when you received the partner
5 guide, you would've reviewed that policy?

6 A. Yes.

7 Q. Okay. And that policy creates an avenue for partners to
8 report conduct?

9 A. Yes.

10 Q. Do -- have you ever reported a partner under that policy?

11 A. No.

12 Q. Okay. So turning to the Ethics and Compliance
13 investigation, when did you speak to the Ethics and Compliance
14 investigator?

15 A. July 5th, I believe.

16 Q. Okay. And then you subsequently left the country from
17 July 13th through August 5th, so July -- how many shifts did
18 you work between -- you can -- can you please answer that? You
19 shook your head. Sorry.

20 A. I'm sorry. Yes. I -- I might have come back the 3rd or
21 the 4th from being out of the country, but I didn't return to
22 work right away.

23 Q. How many shifts did you work between July 5th and July
24 13th when you left the country?

25 A. Probably five or seven.

1 Q. Okay. And then you returned on August 5th?

2 A. Correct.

3 Q. And you worked two shifts before you were issued the final
4 written warning?

5 A. Correct.

6 Q. So there was really only seven shifts that you would've
7 been working in that time?

8 A. Yes.

9 Q. Okay. And when the investigator called you, you admitted
10 to making the comment about the couple's third?

11 A. Yes.

12 Q. And you later became aware that Jocelyn was the one who
13 submitted the Ethics and Compliance report?

14 A. Correct.

15 Q. Are you aware of any other partners who were reported
16 during that conversation with you?

17 A. No. I've -- if I can continue I spoke to almost everybody
18 who was on the floor involved in that conversation after I had
19 gotten the phone call from ethics. And nobody had been spoken
20 to. Nobody had been disciplined.

21 Q. But nobody else talked about having a -- excuse me, being
22 a couple's third?

23 A. Well, some people talked about posting their feet pictures
24 on their Tinder. Other people talked to having foot fetishing.

25 MR. WHALEN: Your Honor, I asked -- it's non-

1 responsive.

2 MR. GOODE: She answered the question, Your Honor.

3 JUDGE RINGLER: Yeah, I'll allow the testimony.

4 BY MR. WHALEN:

5 Q. But no other female partners in that conversation
6 discussed being a couple's third?

7 A. At that moment, no.

8 Q. And so, after the investigation with Ethics and
9 Compliance, you received the final written warning?

10 A. Mm-hmm.

11 Q. On August 8th, 2022?

12 A. Correct.

13 Q. And this was delivered from Julie Wrobel and Michaela
14 Passateli (phonetic)?

15 A. Well, from my understanding and what Julie said, this was
16 coming from above her, and she was just told to hand it to me.

17 Q. Okay. You refused to sign this?

18 A. Correct.

19 Q. Why did you refuse to sign this?

20 A. I did not agree.

21 Q. Why did you not agree?

22 A. Because of the kind of state around these -- this
23 conversation, particularly at the store and how common the
24 occurrences are, how often it's happening with not just myself,
25 a million other people, and because nobody else was spoken to

1 about it.

2 Q. But you admitted to the comment you said you admitted to
3 this in the compliance interview?

4 A. I did not admit to this comment. I mean, the one about
5 specifically having a threesome, that's not something that was
6 said. I explicitly did not say something that was so explicit.
7 Like, I don't speak that way generally at work.

8 Q. But it was your testimony that you did admit to the
9 investigator's questions?

10 A. Correct. About saying. All I'm saying is, don't be some
11 couple's third, it's the kiss of death of their relationship.

12 Q. And you admitted to that statement?

13 A. Correct.

14 Q. And you acknowledged that no one else was subject to an
15 Ethics and Compliance complaint regarding that comment?

16 A. Correct.

17 Q. Have you ever previously been coached for inappropriate
18 language on the floor?

19 A. No.

20 Q. No. As you sit here today, your testimony is that you
21 have never been coached for that?

22 A. For like inappropriate -- maybe there's some like foul
23 language kind of stuff, maybe like swearing.

24 Q. And how would that be different?

25 A. I mean, I don't know. I suppose the only -- the

1 difference would be that my boss in front of the entire store
2 just said to everybody, Hey, guys, can we just keep it a little
3 bit more professional around here?

4 Q. So you have been previously coached for swearing on the
5 floor?

6 A. Not myself personally, but like as a store generally. And
7 one time with Joanna.

8 Q. Danka, turn to the affidavit you submitted in the Buffalo
9 1.

10 A. Mm-hmm.

11 Q. Hearing you -- in Paragraph 28, you admitted that you
12 said, oh, fuck, shit, over the headset and you were coached by
13 Joanna.

14 A. I said by Joanna. That was my last addition to this part,
15 I just said, and Joanna.

16 Q. So you have been previously coached for --

17 A. Yeah.

18 MR. WHALEN: -- swearing on the floor. Okay. I have
19 no further questions.

20 THE WITNESS: Okay.

21 JUDGE RINGLER: Redirect?

22 MR. GOODE: Can I have a moment, Judge?

23 JUDGE RINGLER: Yes.

24 MR. GOODE: I have nothing further.

25 JUDGE RINGLER: Okay. Okay. Thank you very much for

1 your testimony.

2 THE WITNESS: Thank you.

3 JUDGE RINGLER: You're excused. All I ask is not to
4 discuss your testimony with anyone.

5 THE WITNESS: All right. Have a good one.

6 JUDGE RINGLER: All right. Yes. You too. All
7 right. So 4:10. Very good. So we might be able to knock out
8 direct, hopefully. Next witness.

9 MR. GOODE: Yeah. So we -- we have a -- a witness
10 coming. I -- I think we had tried to get him here by 4:30, so
11 if we can have essentially just 20 to 30 minutes to get him
12 here. We -- we're -- we'll try our best.

13 JUDGE RINGLER: Okay. He's not here though?

14 MR. GOODE: No, I don't believe so.

15 MS. SNELLING: I can check. He might be early. But
16 --

17 MR. GOODE: Okay. We -- I think -- I think -- can we
18 at least have 20 minutes, Judge? I think the Region we're -- I
19 think the Region has a procedural matter that we want to raise.
20 I -- I have to talk to the Region though. So can we have till
21 4:30, Judge?

22 JUDGE RINGLER: So I want you to check if your
23 witness is here.

24 MR. GOODE: Okay.

25 JUDGE RINGLER: And my thought being, if we start at

1 4:30, we're not going to really get outta here at 6:00
2 possibly. So check to see if your witness is here.

3 MR. GOODE: Okay.

4 JUDGE RINGLER: And if so, I'd like to continue.

5 MR. GOODE: Okay. Can we raise the --

6 JUDGE RINGLER: And certainly whatever procedural
7 issue you have, you know, talk about it tomorrow morning before
8 we start, and then we will -- we'll go from there. Is there a
9 procedural issue with respect to this particular witness?

10 MR. GOODE: No. No. I -- I think I -- I -- can I --
11 I -- I'm getting this secondhand. Can I -- can I go? I -- I
12 think the Region has something that we'd like to raise with
13 you. Can I speak to -- I -- well, first we'll go check to see
14 if we can find our witness then that.

15 JUDGE RINGLER: But very quickly, and unless it's
16 something connected to this witness that you are certainly able
17 to raise tomorrow or the next day or whatever, that, you know,
18 I'd prefer you do it that way rather than having a lengthy
19 discussion. That'll delay everyone.

20 MS. CACACCIO: Your Honor, may I be heard? May I --
21 for myself, Your Honor.

22 JUDGE RINGLER: Who -- who are you?

23 MS. CACACCIO: My name is Jessica Cacaccio. I'm the
24 regional attorney, and I'm going to be counsel for the General
25 Counsel for the issue we're about to raise with you, Your

1 Honor.

2 JUDGE RINGLER: Okay. Go ahead.

3 MS. CACACCIO: Your Honor --

4 JUDGE RINGLER: We're on the record. Yes.

5 MS. CACACCIO: Good afternoon, Judge.

6 My name is Jessica Cacaccio, and I'm --

7 JUDGE RINGLER: Do you want to grab a seat?

8 MS. CACACCIO: Sure.

9 JUDGE RINGLER: Make yourself comfortable. Why not?

10 MS. CACACCIO: I -- while I understand your position
11 regarding not wanting to delay these proceedings any further, I
12 do think that what we're about to bring to you could -- could
13 cause more significant delay than the 15 or 20 minutes that it
14 would take for us to -- to get this together to you -- to bring
15 to you before we call this next witness.

16 JUDGE RINGLER: Okay. Pique my interest now. All
17 right. How long is your brief discussion going to take?

18 MS. CACACCIO: If we could go back on the record at
19 4:30, I think I should be ready to proceed.

20 JUDGE RINGLER: Okay. We're off till 4:30.

21 (Brief Recess at 4:11 p.m./ Reconvened at 4:37 p.m.)

22 MR. BALSAM: Before Mr. Cacaccio is permitted to
23 speak, I wanted to make sure that my objections to her presence
24 here is on the record.

25 JUDGE RINGLER: Sure. Go ahead.

1 MR. BALSAM: As I indicated prior to we going back on
2 the record, Ms. Cacaccio barged in here unannounced, claiming
3 that there was some issue that required her to interject into
4 these proceedings.

5 Ms. Cacaccio could have been involved in these
6 proceedings had she chosen to be part of these proceedings. It
7 was her who was the reason that this proceeding was postponed
8 from the original scheduled time.

9 JUDGE RINGLER: Mm-hmm.

10 MR. BALSAM: Citing some conflict and inability to
11 have counsel present. I think it's inappropriate for her to be
12 here now. I request that you not allow her to be here now and
13 have anything that needs to be spoken to on this issue be come
14 from the Counsel for the General Counsel, Mr. Goode.

15 JUDGE RINGLER: Yeah. As I indicated before, I will
16 allow her to speak, but now I -- I understand you have an issue
17 of my ruling --

18 MS. CACACCIO: Yes.

19 JUDGE RINGLER: -- on judicial notice.

20 MS. CACACCIO: Yes, Your Honor.

21 JUDGE RINGLER: Why don't you tell me my rulings
22 first?

23 MS. CACACCIO: So --

24 JUDGE RINGLER: Your understanding of it,

25 MS. CACACCIO: My understanding of your ruling, Your

1 Honor, is that you have no intention to take judicial notice of
2 either the Administrative Law Judge's decision or of the prior
3 record in any part with the exception of exhibits.

4 JUDGE RINGLER: So you're incorrect.

5 MS. CACACCIO: I would appreciate clarification.

6 JUDGE RINGLER: Okay. I think I clearly said that I
7 want whatever prior exhibits or transcript pages to come in
8 through a witness. I didn't bar anybody from presenting any
9 sort of evidence.

10 I thought I made that clear. I indicated that if
11 there are exhibits you want to represent, do it through a
12 witness. If there's transcript pages where somebody was locked
13 into their testimony, do it through a witness.

14 If there's a need from me to take judicial notice
15 that there was a prior decision in this case, I -- I probably
16 could do that if presented to me why. But I'm not going to
17 accept a two foot pile of transcript and exhibits. Now, I did
18 not preclude any of those, or all those things from being
19 allowed in.

20 I'm just telling you it's got to occur through
21 witnesses, and I'll rule on those things on a case by case
22 basis.

23 MS. CACACCIO: I understand.

24 JUDGE RINGLER: So maybe you're confused in what I
25 said.

1 MS. CACACCIO: Then --

2 JUDGE RINGLER: Because otherwise I'm kind of
3 surprised.

4 MS. CACACCIO: Your Honor, I'm going to offer then
5 General Counsel -- though not through a witness, General
6 Counsel Exhibit 16 and 17. General Counsel Exhibit 16 is the
7 prior testimony of Kellen Higgins and coordinating exhibits and
8 General Counsel Exhibit 17, which is Cassie Fleischer and her
9 testimony. If I might be heard on those matters, despite the
10 fact that there's no witness here, Your Honor.

11 (General Counsel's Exhibit 16 and 17 are identified.)

12 JUDGE RINGLER: So --

13 MR. BALSAM: Your Honor, the only reason why you
14 would be able to accept -- first of all, during the ruling that
15 you're not going to allow blanket introduction of prior
16 testimony to this case.

17 JUDGE RINGLER: So I don't think I need you to
18 participate at this moment.

19 MR. BALSAM: I -- I just -- again, it's not
20 inappropriate.

21 JUDGE RINGLER: I don't want to -- I don't want to
22 believe right now if you call the particular witness to the
23 stand and they testified and for whatever reason their
24 recollection was exhausted, or, you know, you're -- I don't
25 know if you're impeaching the witness, I don't know what

1 purpose you're using this for.

2 MS. CACACCIO: I wouldn't --

3 JUDGE RINGLER: That would be a different matter.

4 But we don't have a witness in front of us, and I'm not going
5 to let you just drop these things on us. Is there a reason why
6 you haven't subpoenaed this witness?

7 MS. CACACCIO: Your Honor, this witness' testimony
8 will be entirely duplicative of the last testimony. In fact,
9 you heard Jaz Brisack's testimony earlier today indicating that
10 there were people at her store who had had similar instances of
11 occur with them. And we have prior testimony in the last
12 hearing that goes directly to that point.

13 JUDGE RINGLER: I understand. But bear in mind, I'm
14 not taking my position to be difficult with you. However, in
15 the last hearing, the Judge had the great advantage of judging
16 the witness' credibility, right? They're on the stand, they
17 could judge.

18 And that's -- that's why we have, you know, trials
19 and cross as opposed to just, Hey, here are the documents. So
20 you're more than welcome to subpoena whatever witnesses you
21 want.

22 If the witness deviates from their prior testimony,
23 you're more than welcome to present that prior testimony to the
24 witness. But I am not going to just blanketly take the
25 testimony of a witness that I can't see, and I don't think

1 that's even remotely appropriate under judicial notice.

2 MS. CACACCIO: So Your Honor, I would ask that
3 General Counsel's Exhibit 16 and 17 be put in the rejected
4 exhibits file.

5 JUDGE RINGLER: I don't have a witness on the stand
6 to offer them through. I'm not going to do that.

7 MS. CACACCIO: Your Honor --

8 JUDGE RINGLER: I'm telling you to call your witness
9 if you'd like to call your -- is there -- is there a reason why
10 you're not going to call your witness?

11 MS. CACACCIO: Your Honor, calling these witnesses,
12 and these aren't the only ones. This was just a sample because
13 Jaz Brisack just testified. I do have General Counsel -- what
14 I'm going to offer as General Counsel Exhibit 18, which is a
15 motion for reconsideration on these proceedings, which I think
16 will be enlightening to you as to why we can't do what you're
17 asking -- or we could, Your Honor.

18 But it would -- if you'd like to have another seven
19 weeks of hearing for us to rehash the entire testimony, that
20 has already happened with an ALJD.

21 JUDGE RINGLER: Okay. I'm not telling you that I
22 need to hear another 20 witnesses on this, right? There's Rule
23 403, and at some point I could decide whether the benefit of an
24 additional witness merits hearing that witness or it's
25 redundant. So -- I mean, you could try to call 20 people. I'm

1 probably not going to let you.

2 MS. CACACCIO: Your Honor --

3 JUDGE RINGLER: Now, what I -- I think might be
4 useful is maybe you could put together some sort of offer of
5 proof. Maybe you could do something like that.

6 MS. CACACCIO: It's in the motion, Your Honor, which
7 I'm happy to circulate. We are waiting for the all to print.

8 JUDGE RINGLER: Yeah. Circulate your motion. But I
9 -- I -- I really am kind of at a loss why you just mentioned
10 two witnesses. Why you're unable to call two witnesses to the
11 stand.

12 MS. CACACCIO: I have dozens more, Your Honor. Your
13 Honor, this complaint, with the exception of approximately
14 three allegations, is a continuation of what happened in
15 Buffalo 1 case.

16 JUDGE RINGLER: I under -- I understand that, but I'm
17 not re-litigating what Judge Rosas decided. I'm hearing a
18 separate and different complaint.

19 MS. CACACCIO: While it's a separate and different
20 complaint, Your Honor, the facts are inextricably intertwined
21 and which is why I am the one here. Because as Ethan pointed
22 out, the reason I couldn't litigate this case is because I am
23 now the reasonable attorney with other duties.

24 But that original case was my case, Your Honor, and
25 that's why I'm here. So I can help you understand the facts

1 that -- that overlap with this case. Which, as I've indicated,
2 are almost exhaustful.

3 It's not just a -- we could -- we could generate a
4 whole new tran, a whole new record, a whole new transcript for
5 you to decide. It's a continuation of a situation. It's not,
6 you know, in May, 2022, these are new acts, new -- this is a
7 complete continuation of what happened in the first hearing.

8 JUDGE RINGLER: Okay. No motion. I'll look at your
9 motion.

10 MS. CACACCIO: Yes, Your Honor.

11 JUDGE RINGLER: I'll give Respondent an opportunity,
12 of course, to -- a chance to reply to that, and I'll solely do
13 that.

14 MS. CACACCIO: Yes, Your Honor. Just in the interest
15 of clarity and candor to the Court, the motion does also
16 request permission to special appeal absent any reconsideration
17 on these issues.

18 And that would include needing to recall these
19 witnesses for the -- essentially the sole purpose of putting in
20 their transcripts, because that's what it would essentially be.
21 It would be a complete regurgitation of what they did the last
22 time.

23 JUDGE RINGLER: So I don't think it's appropriate for
24 you just to say to your witness, Hey, this is your witness.
25 Did you testify to this before? And hence, Judge, here, take

1 this. That -- that's their prior sworn testimony. It's
2 admissible.

3 I think that you'd be under an obligation to present
4 testimony through that witness. Now, if that witness doesn't
5 recall, you could lead them a little bit, Hey, this is your --
6 your prior testimony, right?

7 If they really don't remember anything at all, then
8 maybe it's past recollection recorded, it might be that. But
9 it's not just like, Hey, here's the witness. You know, here it
10 is, Judge,

11 MS. CACACCIO: And this is the issue, Your Honor. Is
12 it would be -- there is a significant chance for -- for
13 inconsistent rulings between yourself and Judge Rosas on
14 identical issues. Identical. Not -- not, oh, there's
15 something new.

16 I can see these people were fired, Judged, they're
17 gone from the company. All of what happened to them has
18 already happened, and they already testified to it, in -- in ad
19 nauseum with Respondent being fully permitted -- fully
20 permitted to engage in cross-examination of these people. So I
21 understand your concerns, but I do believe they're addressing
22 our motion.

23 JUDGE RINGLER: As I said, I'll take a look at your
24 motion certainly. I'll give Respondent a chance to reply to
25 it. And I don't know how long it is, so I don't know how much

1 time I need to give you, how much time it'll need.

2 MR. HAYES: Your Honor, could I clarify a couple
3 questions? We -- I wasn't here personally yesterday.

4 JUDGE RINGLER: Sure. Absolutely.

5 MR. HAYES: First of all, I'd like to say that
6 Charging Party joins and proceeds with motion on this.

7 JUDGE RINGLER: Okay.

8 MR. HAYES: For the same reasons that the original
9 attorney just said. As Your Honor knows, I was also the
10 Union's first chair in the Buffalo 1 case, and we're in full
11 agreement that --

12 JUDGE RINGLER: Mm-hmm.

13 MR. HAYES: -- the -- the record in this --- in the
14 Buffalo one case needs to be incorporated into the record here,
15 because there, the -- the difference between the two complaints
16 is just a matter of an arbitrary line and time having to be
17 drawn so that the first case could be litigated.

18 But the reality is, you know, the day after the last
19 day that the first complaint touched, Starbucks continued its -
20 - its anti-Union campaign. And that became the subject of this
21 case for about the two cases. So I won't rehash with the
22 regional attorney. Just that we completely agree with that. I
23 do have two clarifying questions if you don't mind.

24 JUDGE RINGLER: No, go ahead. Go ahead.

25 MR. HAYES: One is, Your Honor, if I heard you write,

1 did you say that you would take administrative notice of Judge
2 Rosa's decision from the Buffalo 1 case?

3 JUDGE RINGLER: So I think the Region needs to point
4 out to me the components of that decision I need to take
5 judicial notice of. So if he made a credibility finding for a
6 particular witness, I -- I can't do that, right? I could take
7 note that there was an earlier decision, I could -- I could
8 certainly do that.

9 There were findings made. I don't know that I can
10 use those findings to make my follow-up findings in this case.
11 I mean, part of the problem is really -- is that this was such
12 a big issue for you, you probably should have thought about
13 maybe requesting the Judge that heard the case before,
14 candidly.

15 I mean, right? Because now I have this big difficult
16 problem where, you know, credibility decisions were made and
17 you're saying, Hey, judicial notice of the whole thing, but I
18 didn't see the witness. I can't do that. So I'm inviting you,
19 as I said before, to call witnesses.

20 I'm not going to listen to 20 people testify about a
21 particular single allegation in your complaint. But I might be
22 happy to listen to another one or two more on each piece of it.
23 I'm not suggesting just have one witness testify about one
24 piece of the complaint.

25 I'm inviting you that if certain exhibits that were

1 admitted previously are relevant to my proceeding, I'm
2 certainly happy to -- to look at those and we can deal with
3 those on a case by case basis.

4 If a witness who was called in a prior proceeding
5 doesn't recall something, you could certainly elicit under the
6 federal rules of evidence your prior transcript pages to try to
7 get them to recall or even admit it as past recollection
8 recorded at some point, if everything fails.

9 So I -- I'm -- I'm not suggesting that you're
10 hamstrung in any way, but I am suggesting, you know, and I'm
11 not saying this to be clear about it, that you have to do your
12 work to present your case.

13 MS. CACACCIO: Your Honor, I think -- again, I think
14 that the motion will make this clear, but --

15 JUDGE RINGLER: Yeah. I'll certainly take a look at
16 your motion. I mean, you're not even alleging to me that these
17 witnesses are unavailable. And, Judge, you've got to take this
18 because we can't get these people.

19 MS. CACACCIO: I wouldn't know that at this point,
20 Your Honor, because --

21 JUDGE RINGLER: I mean, you're not even --

22 MS. CACACCIO: -- prior --

23 JUDGE RINGLER: -- have you subpoenaed anybody to --
24 to come testify?

25 MS. CACACCIO: Based on your prior ruling, based on

1 the -- which is attested here too as Exhibit B, it wasn't clear
2 to us that this is -- this was the intended result of your
3 order. And so though we don't -- we don't have that
4 information.

5 And so also in this motion, to the extent that you
6 don't revisit the rulings or you -- you're ruling exactly as
7 you are now, Your Honor, we are requesting an adjournment of
8 these proceedings to do what you're asking because it isn't
9 going to be as simple.

10 I could show up here and call two people and resolve
11 this and move on. Your Honor, it's -- it's -- it is a
12 significant majority of the prior testimony. And -- and it is
13 the majority of this complaint, Your Honor, which includes
14 dozens of allegations. It's not a handful of witnesses. We
15 called 40 witnesses almost in that last trial, Your Honor.

16 JUDGE RINGLER: Mm-hmm.

17 MS. CACACCIO: Not counting what Respondent called,
18 and to recall those people to simply, literally, Your Honor,
19 reiterate what they said in that prior proceeding, it's -- it's
20 a waste of judicial resources.

21 JUDGE RINGLER: You're making assumptions that what
22 they said in the prior proceeding is relevant from my
23 perspective. I don't know if it -- I don't know if it is or --
24 or is not. I'm not suggesting it is. I'm not suggesting it
25 isn't.

1 MS. CACACCIO: Right.

2 JUDGE RINGLER: I mean, I haven't read every page of
3 transcript from Judge Rosas' decision, right?

4 MS. CACACCIO: Right. Which is why, Your Honor, what
5 we're requesting is that you take notice of it and we can cite
6 to the parts we want. And if you -- if you agree and you want
7 to --

8 JUDGE RINGLER: Yeah. And I'm telling you, I'm not
9 willing to do that. I want to hear the witnesses testifying.
10 So I'm telling you -- I'm telling you that. So -- and I'm
11 telling you that you are not limited in using the prior record,
12 but I'm asking you to use it in the way that I'm guiding you.
13 But I'll look at your motion. Maybe there's something that you
14 haven't said that I -- I'm not appreciating currently.

15 MS. CACACCIO: Okay.

16 JUDGE RINGLER: Maybe there's something you have said
17 that I have to -- to think about a little bit more.

18 MS. CACACCIO: Okay.

19 JUDGE RINGLER: So I'm not -- I'm not saying this is
20 necessarily the last say on it. I'll give it some more
21 thought, but that's where I stand right now.

22 MS. CACACCIO: I'm going to again, request that these
23 exhibits be put in the rejected exhibit file on the intent that
24 we have to take a special appeal.

25 JUDGE RINGLER: You already did. And I -- I did say

1 no to you on that front. That I want the exhibits coming
2 through a witness. I don't think you can just drop them and
3 say, Judge, here they are. Or if you don't take them, we're
4 putting in the rejected exhibit file. I don't think that's
5 appropriate.

6 MS. CACACCIO: Okay.

7 JUDGE RINGLER: Unless there's some reason. Witness
8 X -- Witness X is unavailable, and, and therefore, Judge, could
9 you take this? And that's a different question.

10 MS. CACACCIO: Right.

11 JUDGE RINGLER: But you haven't gone through the
12 preliminary steps of seeking to have the person testify. If
13 they're unwilling, subpoenaing the witness to testify, and then
14 if they can't remember, then dealing with the parts of their
15 transcript.

16 So as I said, I -- I think I've repeated this a lot
17 of times and I'm being redundant. I'm not saying no to any of
18 it, but I'm just saying that the way you're attempting to do
19 it, this very shortcut route to do it is inappropriate.

20 MS. CACACCIO: Right. And the reason that it would
21 need to be done is for the purpose of the special appeal, Your
22 Honor. That's why I'm asking for it. Not -- not so that you
23 can --

24 JUDGE RINGLER: You should attach it, right? You
25 could attach wherever you want to your special appeal, it

1 doesn't have to be part of my record, right? It doesn't -- a
2 rejected exhibit does not preclude you from doing any special
3 appeal you want to do. Attach it, have them look at it.
4 Certainly cite my transcript pages.

5 I'm sure, you know, if you don't, you know,
6 Respondent would, so I'm not saying no. I'm going to repeat
7 that again, that I'm just saying that there's unfortunately
8 some hoops that you have to jump through to get to this point
9 and you're not nearly there.

10 MS. CACACCIO: Yes, sir.

11 JUDGE RINGLER: So --

12 MS. CACACCIO: The motion, I know you asked how long
13 it was so that we can make sure the Respondent has an
14 opportunity to respond to it. It's 13 pages, double spaced.

15 JUDGE RINGLER: Okay.

16 MS. CACACCIO: There's two exhibits, one -- both of
17 which Respondent is familiar with. One is the redlined. I
18 don't know what happened to -- one is the redlined what was in
19 the last case as GC Exhibit 1, quadruple E, which was the red
20 line complaint in that matter. And Exhibit B, which is your
21 email regarding Respondent's motion in limine on this issue.

22 JUDGE RINGLER: Okay. Okay. Very good.

23 MS. CACACCIO: So -- and I'll, and I will circulate
24 it. It's on the printer.

25 JUDGE RINGLER: So now, I did preclude you. I wanted

1 her to finish.

2 MR. BALSAM: I -- I didn't interrupt because I was
3 trying to be respectful of --

4 JUDGE RINGLER: And I -- and I appreciate that. Is
5 there something that probably is, that you'd like to add? I'll
6 certainly give you a chance to make a fuller response, but if
7 you want to say something now, I'm not going to --

8 MR. BALSAM: And I appreciate that, Judge. Obviously
9 we don't think it's appropriate for the other side to seek
10 reconsideration of your ruling, which was well reasoned.

11 We've identified the reasons why it would be
12 inappropriate to consider Buffalo 1 as part of our motion in
13 limine, which you already ruled on. The other point that's
14 been made multiple times is that this is basically a
15 continuation of Buffalo 1, that's not true. That's not
16 accurate.

17 JUDGE RINGLER: Mm-hmm.

18 MR. BALSAM: Buffalo 1 was massive in scale in the
19 sense that it included a whole host of allegations that are not
20 part of this case. And so to the extent that the counsel for
21 the General Counsel seeks to do a blanket introduction of the
22 entire transcript for Buffalo 1, that would be wholly
23 inappropriate.

24 More so as I -- and again, I alluded to this point,
25 ALJ Rosas' decision is incorrect, is violation of Board law.

1 We are filing exceptions to that decision in 10 days. We are
2 seeking to accept on virtually all, maybe the entirety of his
3 decision --

4 JUDGE RINGLER: Mm-hmm.

5 MR. BALSAM: -- because it is not in compliance with
6 Board law. He made terrible credibility determinations. And
7 as you pointed out, and I pointed out also in this -- in the
8 motion that we filed, if it gets overturned and you rely on
9 that, then this decision on this record gets overturned as
10 well, potentially.

11 And so we agree with you that it -- it is not
12 appropriate for you to accept an entire record or to take
13 judicial notice of Buffalo 1 given the fact that it's entirely
14 different than what this case or what we call Buffalo 2.

15 JUDGE RINGLER: Mm-hmm.

16 MR. BALSAM: We do appreciate the opportunity to
17 write a written response to the counsel for the General
18 Counsel's motion for consideration. We would request until at
19 least Friday to do so. One, because we're here in trial.

20 MS. CACACCIO: Sure.

21 MR. BALSAM: And two --

22 JUDGE RINGLER: Friday is fine.

23 MR. BALSAM: -- our client needs to review it before
24 we file it.

25 JUDGE RINGLER: Okay. That's more than fine. And --

1 and, you know, the other thing that I'll -- I'll -- I'll delve
2 into with you as well is to me just saying, Judge, here's
3 somebody's testimony is not really all that different saying,
4 Hey, we took an affidavit from this witness. It was a sworn
5 affidavit.

6 Here it is, take it, put in rejected exhibits if --
7 if you're, you know, you're not going to take it, Judge. I'm
8 suggesting to you that if you want me to Judge the credibility
9 of that, the witness' testimony, that I need to see that
10 witness and hear that witness. Now, if somebody is
11 unavailable, then that's -- that's different.

12 They're not going to comply with a subpoena, that's
13 different. I might then ask you, Hey, you're going to force
14 that subpoena in federal court and you've got to, you know, let
15 me know that and we will -- we will take it from there. And
16 the other thing that I point out to you, and maybe I'm wrong,
17 right?

18 Is that at this point, in terms of precedent, what is
19 -- what is the value of Judge Rosas' decision? He's a terrific
20 judge, brilliant judge, I like him very much. However, I -- I
21 don't think it's precedent setting for my purposes until such
22 time as the board rules on his decision and finds that these
23 things occurred.

24 So for example, if he found certain -- certain events
25 of animus in his decision, I don't think it's really

1 appropriate for me to rely on those events of animus until the
2 Board puts a stamp for approval on that.

3 MS. CACACCIO: Your Honor, in response to your
4 points, I -- I do have some response to your points.

5 JUDGE RINGLER: Sure.

6 MS. CACACCIO: With respect to the affidavit counsel
7 for the General Counsel obviously takes a position that this
8 would not be the same as simply asking you to take notice of an
9 affidavit. This is a transcript of a case that witnesses were
10 sworn in similar to an affidavit, but they were subject to
11 rigorous cross-examination by Respondent.

12 JUDGE RINGLER: Mm-hmm.

13 MS. CACACCIO: It's the same parties, it's the same
14 proceeding. It's, you know, the same everything. It's
15 literally even same counsel who had already had the opportunity
16 to do that. And you're right, Your Honor, this wouldn't be
17 precedent setting.

18 By that, I mean, it's not a binding Judge Rosas'
19 decision until -- until the board rules it's not binding.
20 You're right. And we do address that in the motion as well.
21 There have been numerous circumstances where the Board's upheld
22 an ALJ's decision, where they rely on animus findings of the
23 prior ALJD even before -- while exceptions were pending and
24 before the board is ruled.

25 I have citations in the brief to Judges taking notice

1 of the transcripts in its entirety. And I think that -- I'm
2 hope -- I'm hopeful, Your Honor, that you'll be persuaded.

3 I understand that you've given Respondent until
4 Friday to respond to this motion, given the potentially -- I
5 don't even know how to describe this the entire change of the
6 landscape of what this would do to the General Counsel's case,
7 we're going to ask for an adjournment until you've ruled.

8 I understand you may not grant that to us, but -- but
9 that's what we're asking for at this point. Until we know
10 whether we're going to be taking a special appeal, until we
11 know what your ruling is ultimately going to be on this matter,
12 we need an adjournment because it will change the testimony of
13 the witnesses.

14 MR. BALSAM: Judge, may I respond before? Unless
15 you've made the decision.

16 JUDGE RINGLER: Sure. Go ahead. Go ahead.

17 MR. BALSAM: Counsel for the General Counsel's aware
18 prior to our commencement of this case that our motion in
19 limine, we ruled prior to us skiing here.

20 JUDGE RINGLER: Mm-hmm.

21 MR. BALSAM: And they could have theoretically filed
22 this before we showed up on Monday. They didn't do that. They
23 waited until today to do that. It would be highly prejudicial
24 from -- from my perspective, if we continue this case until
25 such time as we file their opposition is ruled. I see no basis

1 for you to do that.

2 They can continue their case. If they need to recall
3 witnesses, they can do that. But it -- we disagree and object
4 to this case being continued until such time as counsel for the
5 General Counsel files their motion.

6 JUDGE RINGLER: Yeah. No, I -- I -- I think my -- my
7 clear inclination would be for us to continue with the
8 proceeding at this time. I understand that you mentioned two
9 witnesses that I guess are not part of the, you know, GC's case
10 yet, but maybe.

11 But at the very least, I'm assuming the other
12 witnesses the GC intended to call, were -- were folks that, you
13 know, are going to be called in any event. So --

14 MS. CACACCIO: See, that's -- that's where it's not -
15 -it's not quite right, Your Honor, respectfully. And I did
16 want to address Ethan's point with respect to why we didn't
17 file a reply. Your response specifically in bold and
18 underlined said the GC did not reply to the motion?

19 JUDGE RINGLER: Right. I did say that. That's true.

20 MS. CACACCIO: Our understanding in the motion was
21 that, you know, the motion itself, or the order itself
22 indicated that you were going to consider incorporating limited
23 portions of the earlier record eg, certain exhibits, et cetera.
24 The only et cetera that I could understand that to mean was the
25 transcript. So I -- we didn't anticipate this as a -- as a --

1 as even a possibility, Your Honor.

2 JUDGE RINGLER: So I -- I'm making it very clear to
3 you that I'm willing to consider it as we go through various
4 witnesses. I don't think that what you're asking for will be
5 appropriate under judicial notice.

6 And at this point, I'm not persuaded, but I'll
7 certainly take a look at your -- I'll certainly take a look at
8 your motion. I'm going to obviously take a look at what
9 Respondent has on Friday, and I have the -- the weekend to look
10 at that, and I'll probably rule on that on Monday.

11 MS. CACACCIO: Yes, sir. The General Counsel would -
12 - given the -- given your lack of inclination to adjourn the
13 case, Your Honor, then we would ask that we've committed to
14 recall witnesses to the extent that we need to do so, because
15 these witnesses aren't ready to talk about what happened to
16 them two years ago on a matter that they've already testified
17 on, Your Honor,.

18 MR. BALSAM: Judge, that would be highly
19 inappropriate for them to be able to recall witnesses that sat
20 here, that they could have asked questions. And to be quite
21 honest, we discussed background information about these
22 particular witnesses, information that they testified to in
23 Buffalo 1. Both parties had the opportunity to -- to examine
24 these witnesses. Why would we recalling them again?

25 MS. CACACCIO: Which, Your Honor, is -- is that --

1 that's the entire -- the entire point, Your Honor. We -- I
2 understand that in turning over Jenck's material, you've been
3 permitting or you've been requiring the General Counsel to turn
4 over to Respondent affidavits that occurred in the first
5 hearing.

6 If that hearing wasn't relevant, didn't need to be
7 considered. We don't need to -- to look at that at all. I
8 don't -- I don't understand why we're doing that.

9 JUDGE RINGLER: I think -- I think we're -- we're
10 getting far field on -- on now talking about Jencks material.
11 You -- you understand my ruling?

12 MS. CACACCIO: I do, Your Honor.

13 JUDGE RINGLER: I -- I would like the GC to continue
14 their case.

15 MS. CACACCIO: Yes, sir.

16 JUDGE RINGLER: And if we reach a particular -- I'm
17 not -- I'm not taking the position that I'm going to allow you
18 to recall witnesses, but if there's, you know, something that
19 arises on a case by case basis, I'll listen to your request to
20 recall the witness.

21 But, you know, you're -- you're presenting your case.
22 We're going into next week. I'm here until next Friday, right?
23 So you have more than ample opportunity to consider how this
24 applies to your other witnesses.

25 If for some reason a witness that was previously

1 presented wasn't thoroughly asked a question or you didn't
2 delve into certain matters, even though I think I've made my
3 position clear from the -- the get-go when we started.

4 If for some reason there's something like that, I'll
5 listen to your request. I'm not saying yay or nay on that, but
6 I'll certainly be happy to listen. Yes, Your Honor. So let us
7 start with our next witness.

8 MS. CACACCIO: Before we do that, Your Honor, I'm
9 going to circulate General Counsel exhibits.

10 JUDGE RINGLER: Yes, please do that. Please do that.

11 MS. CACACCIO: Are you admitting General Counsel 18
12 into the record as an exhibit?

13 JUDGE RINGLER: What is General Counsel 18?

14 MS. CACACCIO: That's the motion, Your Honor.

15 (General Counsel's Exhibit 18 is identified.)

16 JUDGE RINGLER: That's your motion?

17 MS. CACACCIO: Yes, Your Honor.

18 JUDGE RINGLER: Can I see it --

19 MS. CACACCIO: Yes, Your Honor.

20 JUDGE RINGLER: -- before I decide if I'm going to
21 admit it.

22 MS. CACACCIO: Yes, Your Honor.

23 JUDGE RINGLER: Thank you. All right. Well, I'm not
24 going to waste more time. Not that this was a waste of time,
25 that was an appropriate way to say that. I'm not going to

1 spend more time having you folks watch me read this at this
2 point. I've got the motion. I will let you know if I'll admit
3 it as an exhibit.

4 I'd probably be inclined to do so, but I want to see
5 it first before I rule on it, and then we'll take it from
6 there. So let's, you know, this is all kind of -- to me, this
7 is also all kind of out of left field. I didn't realize this
8 was, you know the fodder of special appeals.

9 And, you know, candidly, they made a motion in
10 limine. You know, General Counsel in future cases can also
11 make a motion in limine well before we're here at this point
12 where you're telling me, Judge, we're prejudiced. You know, we
13 -- we -- we would've ask our witnesses other questions and
14 other things.

15 All these things could have happened, you know, as
16 soon as a Judge was assigned to the case. And now 11th hour,
17 we're in the middle of this, you know, like, Hey, you know,
18 we're going to do a potential special appeal, look at the
19 motion, here's, you know, transcript pages and everything else.

20 And it's kind of, you know, surprising from my
21 perspective, honestly. But it is what it is. We'll -- we'll
22 move forward and we will -- we'll figure it out. And I will
23 consider your GC Exhibit 18.

24 I understand you have a, a motion to admit it. I'm
25 likely inclined to do so, but I want to look at it first.

1 We've got Friday for Respondent to respond to this, and then
2 we'll take it from there.

3 MR. BALSAM: Judge, I would request that we be served
4 with an electronic copy of this motion.

5 MS. CACACCIO: I'll do that too. I'll open the
6 service sheet.

7 JUDGE RINGLER: Okay. Good.

8 MS. CACACCIO: I'll give you my card.

9 JUDGE RINGLER: Good. All right. So let us, without
10 further ado -- thank you. Nice meeting you. I've seen your
11 name on a lot of things, so good to see you. Good to see you
12 as well. So all right.

13 MS. CACACCIO: Thank you, Judge.

14 JUDGE RINGLER: Very good. All right. Thank you.

15 MS. CACACCIO: Bye.

16 MS. SNELLING: Your Honor, if I may, before I get the
17 next witness, the -- the next witness' testimony is going to
18 take probably at least about an hour and a half. And it's
19 currently 5:10. So I just wanted to present that to you to see
20 --

21 JUDGE RINGLER: I understand.

22 MS. SNELLING: -- what your thoughts are on that.

23 JUDGE RINGLER: Let's just go through until 6:00 and
24 you'll continue with your direct --

25 MS. SNELLING: In the morning.

1 JUDGE RINGLER: Yeah.

2 MS. SNELLING: Okay. Perfect.

3 JUDGE RINGLER: We'll do that. But thank you for
4 pointing that out.

5 MS. SNELLING: Yes. They are here, so I will go grab
6 them.

7 JUDGE RINGLER: Okay. Sounds good. Thank you. All
8 right. And we're -- we're still on the record, correct? You
9 can go off for a minute because it might take a minute for them
10 to get their way here.

11 (Brief Recess at 5:08 p.m./ Reconvened at 5:10 p.m.)

12 JUDGE RINGLER: All right. So it's 5:10 p.m., we had
13 a lot of good discussion on the earlier record, which I -- I
14 think will be ongoing. And we've got our next GC witness. So
15 to start things off, easy question first. What's your name?
16 For the record and spell for us first and last.

17 THE WITNESS: Sure. Samuel Amato. S-a-m-u-e-l
18 Amato, A-m-a-t-o. I go by Sam though. S-a-m.

19 JUDGE RINGLER: Okay. Very good. Thank you Mr.
20 Amato.

21 THE WITNESS: Thank you.

22 Whereupon,

23 SAMUEL AMATO,

24 Was called as a witness having been previously duly sworn, was
25 examined and testified as follows:

1 JUDGE RINGLER: Yes. All right, very good. And
2 Counsel, what complaint paragraphs is Mr. Amato going to
3 testify about in the final complaint?

4 MS. SNELLING: Yes, Your Honor. It is complaint
5 section 7(B) about the three strikes policy. There is one
6 section that I didn't mark and it's about bargaining with the
7 Union. So that's -- I think that's section 11.

8 JUDGE RINGLER: Okay, so we've got section -- you
9 said 7(B)?

10 MS. SNELLING: 7(B).

11 JUDGE RINGLER: All right. And 11?

12 MS. SNELLING: Yes. And then not all of 11, but
13 certain parts I just haven't had -- had them labeled yet.
14 Section 6(I) and Section 9(J) for Sam's termination.

15 JUDGE RINGLER: Okay. Do you want to take a moment
16 just to tell me what parts of 11?

17 MS. SNELLING: I can, yes.

18 JUDGE RINGLER: Okay.

19 MS. SNELLING: You know what, never mind Your Honor.
20 I was mistaken. It's not section 11.

21 JUDGE RINGLER: It's not -- No 11 at all?

22 MS. SNELLING: Nope. So it is section -- like I said
23 7(B), 6(I) and 9(J).

24 JUDGE RINGLER: Okay, so let me take a look for a
25 second and then we'll dig in into his testimony.

1 MS. SNELLING: And the 7(B) is the three strikes
2 policy, Your Honor. That's the unilateral implementation
3 allegation. 6(I) is about the accusations of employees
4 stealing coffee.

5 JUDGE RINGLER: So 7(B)?

6 MS. SNELLING: Yes.

7 JUDGE RINGLER: Fourth consolidated complaint?

8 MS. SNELLING: Yes.

9 JUDGE RINGLER: I've got decrease or withdrew
10 benefits of its employees, by changing its past practice
11 regarding early closure for the holidays. Is that what he's
12 testifying about?

13 MS. SNELLING: No, it is about the three strikes
14 policy.

15 JUDGE RINGLER: Okay. So why don't you just take a
16 look and tell us what -- which one that is.

17 MS. SNELLING: Yes, hold on.

18 MR. GOODE: 7(A) Your Honor.

19 JUDGE RINGLER: 7(A)?

20 MS. SNELLING: Yep. 7(A) and 12(A).

21 JUDGE RINGLER: Okay. So 7(A) and 12(A).

22 MS. SNELLING: Yep. Thank you, Your Honor. For --

23 JUDGE RINGLER: Okay. No, you are welcome. All
24 right.

25 Okay. Go to it.

1 MS. SNELLING: Okay.

2 DIRECT EXAMINATION

3 BY MS. SNELLING:

4 Q. Good afternoon, Sam.

5 A. Hi.

6 Q. What are your pronouns?

7 A. He/him.

8 Q. And where do you currently work?

9 A. I am unemployed currently.

10 Q. Did you ever work for Starbucks?

11 A. I did, yes.

12 Q. When did you work for Starbucks?

13 A. It was August of 2009 up until August of 2022.

14 Q. And why do you no longer work for Starbucks?

15 A. I was fired.

16 Q. And when were you terminated?

17 A. It was August 5th, 2022.

18 Q. What store did you work at while employed by Starbucks?

19 A. I've worked at several, my first home store was the Walden
20 Gall -- Galleria location in Cheektowaga. And then in 2017 I
21 went to Sheridan and Bailey in Amherst. That was technically
22 my home store when I was fired, but when I was fired I was
23 temporarily working at 3611 Delaware Avenue in Tonawanda.

24 Q. Okay. And is that also known as the Tonawanda Store?

25 A. Correct, yes.

1 Q. Okay. And why were you at the Tonawanda location?

2 A. So Sheridan and North Bailey was getting a remodel, which
3 started early June of 2022. And so, we temporarily were
4 transferred to the Tonawanda location while it was being
5 remodeled.

6 Q. Okay. And prior to the Sheridan and Bailey partners
7 moving to the Tonawanda store, how was the location used?

8 A. The Tonawanda location?

9 Q. Mm-hmm.

10 A. So it had opened up -- I believe early 2022 and was
11 staffed with a combination of employees hired for that location
12 and employees from another location that was being remodeled.
13 And then when we transferred there, the staff had become very
14 minimal.

15 So the staff that was for the Tonawanda location was
16 transferred temporarily to other locations, and my whole team
17 at Sheridan and Bailey went to Tonawanda.

18 Q. And at the time that your Sheridan and Bailey store moved
19 to the Tonawanda location, was there a union at your store?

20 A. There was, yes.

21 Q. Okay. So prior to the move, was there any bargaining
22 about the move?

23 A. There was, yes.

24 Q. Okay, and when?

25 A. It was the end of May 2022.

1 Q. Okay and where did this bargaining take place?

2 A. It took place on Zoom.

3 Q. Okay and with who?

4 A. I was present along with several other of my partners.

5 And then for Starbucks, it was our temporarily -- temporary

6 district manager at the time Mikayla Murphy, along with Alan

7 Model who was their lawyer. And I believe Kathleen Kelly from

8 partner relations was also on that Zoom.

9 Q. Okay. And while on that Zoom, did you participate?

10 A. I did, yes.

11 Q. Okay. And what did you say?

12 A. I just, what -- I primarily took the lead in --

13 MR. BALSAM: Judge, Objection. Move to strike as
14 relevance,

15 MS. SNELLING: Your Honor --

16 JUDGE RINGLER: Relevance Counsel.

17 MS. SNELLING: Yeah. This is talking about his union
18 activity, and we allege that he was terminated for his union
19 activity.

20 JUDGE RINGLER: Certainly appropriate. Go ahead.

21 MR. BALSAM: Judge, what occurred during the Zoom
22 session as a bearing on whether or not this individual
23 supported the Union, participated in any type of bargaining,
24 it's irrelevant.

25 JUDGE RINGLER: Well, the Zoom session is a

1 bargaining session. Am I correct?

2 MS. SNELLING: Yes.

3 JUDGE RINGLER: So I think -- you know, being at a
4 bargaining table is classically considered union activity.

5 MR. BALSAM: Correct. The content of what was
6 discussed during that bargaining session does not have any
7 relevance in this proceeding. It was already established that
8 he wasn't even --

9 JUDGE RINGLER: Well, let me -- let me judge that.
10 So I'm going to allow the testimony. It's fine.

11 BY MS. SNELLING:

12 Q. So Sam, what did you say in that bargaining session?

13 A. Well I -- I primarily took the lead in that session along
14 with my former coworker, Rachel. And we, including myself,
15 talked about terms of moving to the store, what operations
16 would look like if we would have the ability to modify
17 operations.

18 Say new our -- our team was short staffed. We talked
19 about benefits, specifically the Lyft to work benefit, which at
20 Sheridan and Bailey we were allowed to order rides via Lyft and
21 the Tonawanda location did not have that benefit. So we asked
22 them to extend that benefit while we were temporarily at that
23 location among other things.

24 Q. Okay. What position did you hold when you worked for
25 Starbucks?

1 A. I started as a barista and then after about a year, maybe
2 2 years, I was promoted to shift supervisor, and that's the
3 position I held when I was fired.

4 Q. Okay. And how many hours a week did you typically work?

5 A. I was a full-time employee, so usually 32 to 35, but it
6 could vary.

7 Q. Okay. And what days did you typically work?

8 A. Usually I -- I would have off two random weekdays. It did
9 vary, but I pretty much always worked Saturday and Sunday and
10 then, you know, various weekdays.

11 Q. Okay. And what shift did you typically work?

12 A. At Sheridan and Bailey in Tonawanda, I was a closer. So I
13 would work usually mid to late afternoon up until the time the
14 store closed, which was 9 or 10.

15 Q. Okay. Are you familiar with the Union Workers United?

16 A. I am very much so.

17 Q. Okay. And when did you become familiar with Workers
18 United?

19 A. It was August of 2021.

20 Q. Okay. And how did you become familiar?

21 A. A partner that picked up a shift at my store approached me
22 and asked me if I had interest in unionizing and if I had heard
23 about it. And that's -- that's when it all started. Mid-April
24 or mid-August.

25 Q. Okay. And so, after that conversation, what if anything,

1 did you do?

2 A. I was very excited. So I immediately started talking to
3 my partners about it. I was very focal. I began reading up
4 about unionization. I began going to union meetings and
5 showing support.

6 Q. Okay. And what happened after you shared this with your
7 coworkers?

8 MR. BALSAM: Objection, vague. What does this mean?

9 JUDGE RINGLER: Sustained.

10 BY MS. SNELLING:

11 Q. Okay. What happened after you shared your excitement
12 about the Union with your coworkers?

13 A. At first it was a really exciting time. There was a lot
14 of energy. People were excited about it but the response from
15 management and from corporate -- it came fast, and it was very
16 heavy handed.

17 A few weeks after we started talking about the Union
18 and it became public, that's when we started to get visits from
19 members of upper management very frequently, including Rossann
20 Williams. The -- at the time was the vice president. And
21 really it was my -- my former manager for a long time was fired
22 in early September of 2021 and it soon became less exciting and
23 -- and more scary I would say.

24 MR. BALSAM: Judge, I move to strike the entire
25 testimony that this witness just gave as it has absolutely no

1 relevance to this particular proceeding. We've already
2 established that this witness, supporter of the Union, the fact
3 that Starbucks responded to the organizing campaign has no
4 relevance to this particular proceeding.

5 MS. SNELLING: Your Honor, given the conversation
6 that we just had with Mr. Casio (phonetic) here --

7 MR. BALSAM: Again that's -- Judge --

8 JUDGE RINGLER: Well, let him finish.

9 MS. SNELLING: Thanks, Your Honor. Given that
10 conversation, this is now what we're going to be having to kind
11 of dive into. And also, it is extremely relevant. Sam was one
12 of the initial people that started to try to unionize his
13 store, and my next question would be if he tried to organize
14 his own store.

15 JUDGE RINGLER: Okay.

16 MS. SNELLING: So this is extremely relevant.

17 JUDGE RINGLER: Okay. I'll allow you to continue.

18 MS. SNELLING: Okay. Thank you.

19 MR. BALSAM: Just -- it's relevant to what? I'm not
20 sure I understand.

21 JUDGE RINGLER: Well, I think they're trying to
22 establish his union activity and I'm assuming knowledge, right?

23 MS. SNELLING: Yes.

24 JUDGE RINGLER: This phase --

25 MS. SNELLING: And -- and --

1 MR. BALSAM: But he has already testified that he was
2 supporter of the Union in part of bargaining session. So I
3 don't know why --

4 JUDGE RINGLER: I think they want to supplement with
5 other instances of his union activity. So I'll allow you to.

6 BY MS. SNELLING:

7 Q. So you previously mentioned your store has a union.

8 A. Mm-hmm.

9 Q. Did you help organize your store?

10 A. I did, yes.

11 Q. Okay. And when did your store unionize?

12 A. We -- our -- our vote was read. And it became -- we won
13 that. It was early March of 2022.

14 Q. Okay. And besides talking with your coworkers, how else
15 have you shown your union support?

16 A. So I frequently made signage that I would put up in our
17 employee area, about the Union. I would print out union
18 literature or bring in literature from the Union office and
19 give it to employees.

20 I wore at least one union pin every day. I wore my
21 union shirt regularly when I visited the store on my days off.
22 I wore it when Howard Schultz came to Buffalo. I was in some
23 of the literature that the Union made, notably the first
24 newsletter, the printed magazine newsletter that the Union
25 printed. My picture was in it.

1 I was very proud of that and hung it all over the
2 store and that I specifically remember members of upper
3 management, including Rossann Williams looking at that.
4 Because I plastered it all over the fridge at work. And I also
5 was just very, very vocal about it.

6 Q. And I know you mentioned someone by the name of Howard
7 Schultz, who is Howard Schultz?

8 A. He is the former CEO of Starbucks.

9 Q. Okay. And you mentioned someone named Rossann?

10 A. Yes.

11 Q. Who is Rossann?

12 A. Former vice president of Starbucks North America.

13 Q. Okay. Okay. Did you ever speak with managers about the
14 Union?

15 A. I did frequently, yes.

16 Q. Okay. And how frequently?

17 A. Sure. So from the -- the time the Union started up until
18 March of 2022, we went through quite a bit of -- of managers.
19 I had 10 store managers that had come through my store, and
20 almost all of them, I would -- my first conversation would be,
21 you know, obviously, "Hi, how are you?"

22 You know, this is my name, but I'm a union supporter.
23 You know, I'm looking to better the store, better my partners,
24 get better benefits, not looking to disrupt anything". And I
25 thought it was very important to be open and honest.

1 Q. Okay. Have you ever been publicly critical of Starbucks?

2 A. Yes, I have.

3 Q. Okay. How so?

4 A. Notably there was one video interview that I was in, with
5 a publication called More Perfect Union. They posted it on
6 their social media accounts, where I talked about the
7 shortcomings with Starbucks healthcare.

8 I also spoke up during meetings that my store had
9 with members of upper management, specifically about benefits
10 that I thought could be improved, my experiences with
11 healthcare and Starbucks. I also had one-on-one conversations
12 with a lot of members of upper management, including Rossann
13 Williams.

14 Q. I think you mentioned More Perfect Union posted the video
15 on their social media.

16 A. Yes.

17 Q. Do you remember which social media platforms?

18 A. Yes. It was on their Twitter and Instagram. I also
19 shared it on my Instagram account. I didn't use Twitter at the
20 time. I believe it also was on Facebook.

21 Q. And -- and do you recall any particular conversations with
22 management about your experience as a partner?

23 A. Yes, many.

24 Q. Okay. Which one in particular do you think of?

25 A. There was one in particular that I had at -- at a meeting

1 with Allison Peck, who was at the time our regional Vice
2 president. I also believe Deanna Pusatier was there, who was a
3 regional director at the time. And I --

4 JUDGE RINGLER: Before you tell us what happened, why
5 don't you tell us when it occurred --

6 THE WITNESS: Sure. It --

7 JUDGE RINGLER: Where it occurred, those instances --
8 since -- let's lay a foundation for the discussion. That's
9 fine. The Counsel should probably ask you about that.

10 MS. SNELLING: Okay. Yes. Okay.

11 BY MS. SNELLING:

12 Q. So you spoke with Allison Peck. Where did you speak with
13 her?

14 A. It was in my store. We closed for a couple of hours to
15 have this meeting. Starbucks called it a listening session.
16 It was --

17 Q. When was it?

18 A. Fall of 2021.

19 Q. Okay.

20 A. Probably September or October.

21 Q. Okay. And was anyone else present for that conversation?

22 A. yes. So there was maybe about 15 to 20 of my partners.
23 There were other members of management there as well. I
24 believe it was Kathleen Kelly from Partner Relations. And
25 there was a gentleman by the name of Chris, I don't remember

1 his last name, but he was a -- a labor relations specialist
2 with Starbucks.

3 Q. Okay. And what did you discuss in this conversation?

4 A. I had recently -- I'm sorry -- so I had a non-cancerous
5 tumor that I had to have removed and I -- I just struggled
6 paying the bills. I -- I was a full-time employee at Starbucks
7 and had insurance through Starbucks and paid a lot of money for
8 that insurance.

9 And the process of getting the tumor checked out, I -
10 - and having the surgery and getting all the testing was very,
11 very expensive. And I spoke about that, about my experiences
12 with that and told them, look this is why I want a union. I
13 don't think the healthcare packages are adequate. And I want
14 to say -- and -- and what we receive and what we're allowed to
15 choose from.

16 Q. Compared to other coworkers, how would you describe your
17 own union activity Sam?

18 MR. BALSAM: Objection. This witness can't testify
19 about every single co-worker.

20 JUDGE RINGLER: Sustained.

21 BY MS. SNELLING:

22 Q. How would you describe your union activity Sam?

23 MR. BALSAM: Objection. This witness has already
24 testified about his Union activity.

25 JUDGE RINGLER: Yeah. I think we've gotten a lot

1 about the Union activity and a lot about knowledge at this
2 point.

3 MS. SNELLING: Okay.

4 JUDGE RINGLER: I think we're kind of reaching that
5 point where it's excessive.

6 MS. SNELLING: Okay. Couple more questions on this,
7 Your Honor, about bargaining committee.

8 MR. BALSAM: Same objection, Judge.

9 JUDGE RINGLER: Yeah, we -- I -- as I said, I think
10 we've got plenty on the -- on the Union activity at this point.
11 So if you want to make an offer of proof that if I allowed you
12 to ask him questions about the bargaining committee, this is
13 what he'd say. I'll -- I'll -- in all fairness, let you to do
14 that --

15 MS. SNELLING: He's just going to say he's on the
16 bargaining committee -- can -- can we just establish that?

17 JUDGE RINGLER: You just want to ask him a question,
18 Is he on the bargaining committee? I thought -- didn't you --
19 didn't he already say that though?

20 MR. BALSAM: He already testified to that in the
21 beginning.

22 JUDGE RINGLER: With the zoom meeting? Isn't that --

23 MS. SNELLING: No -- he -- he may have Your Honor.

24 JUDGE RINGLER: Yeah, I think he --

25 MS. SNELLING: I apologize.

1 JUDGE RINGLER: Okay. Okay. Okay. No problem.

2 It's getting late in the day. Okay.

3 BY MS. SNELLING:

4 Q. Sam, who was the last store manager you worked with at
5 Sheridan and Bailey?

6 A. It was Hannah Stachowiak.

7 Q. Okay. And did Hannah ever create a new discipline
8 disciplinary policy while you worked there?

9 A. Yes.

10 Q. Okay. And what was the policy?

11 A. She termed it the three-strike rule.

12 Q. Okay. And what was the three strikes rule?

13 A. So according to Hannah, it was a disciplinary measure to
14 be taken by shift supervisors, where during my shift I would
15 observe the baristas and if I saw them violate a rule or a
16 policy, her classic example was leaving an ice bin open.

17 I was to approach the barista and let them know that
18 they're breaking a policy, tell them what the policy is and
19 that I expect them to be following this policy. And then
20 throughout the day, if I saw them break this rule again, I
21 would go up to them a second time, second strike, and I would
22 say, "We've talked about this policy.

23 You're still leaving the ice bin open. Please don't
24 let this happen again. If it happens again, I'll be sending
25 you home". And then if I see them break the policy a third

1 time, I was to go up to them and let them know that this is not
2 their third strike. You know, they're not following the rules,
3 punch out and go home for the day.

4 Q. Okay.

5 JUDGE RINGLER: What was the rule before this?

6 THE WITNESS: The rule before this was not nearly as
7 strict. It's always been about development and assuming
8 positive intent in others and seeing and -- and not just
9 punishing them. But seeing what they need to be able to follow
10 the rules or follow policy correctly.

11 JUDGE RINGLER: And when did this three strike rule,
12 for lack of a better term, then put into place?

13 THE WITNESS: It's hard to say because it was first
14 mentioned, you know, end of May or early June, and it was just
15 mentioned in such a casual way that I didn't even think that it
16 would be a set of rules that we would be, you know -- be
17 required to follow.

18 She just kind of mentioned it so casually and then it
19 was really July that I was sat down. Well, I was pulled aside
20 by Hannah and we had a conversation specifically regarding the
21 three strike policy, and that's -- that conversation is when I
22 knew that she meant it as a serious policy that was to be
23 enforced and followed.

24 JUDGE RINGLER: Okay.

25 BY MS. SNELLING:

1 Q. So we'll talk about the -- when she sat you down in just a
2 minute, but had you ever heard of this policy?

3 A. No, I have not.

4 Q. Okay. And did this policy change how you interacted with
5 the baristas?

6 A. Oh, it did. Yeah, very much so.

7 Q. So how so?

8 A. Sure. So as -- as I mentioned a minute ago, Starbucks in
9 -- in my interpretation has always been about assuming positive
10 intent in everyone. And this policy for me did not assume that
11 people would be acting and doing the right thing. It struck
12 fear in a lot of people, and it just felt like she wanted us to
13 just watch over everyone like a hawk.

14 And that made the work environment very tense and
15 uncomfortable. And also, a lot of the issues that she was
16 bringing up that she wanted us to enforce through this three
17 strike rule were just minor issues that could easily be -- you
18 know worked out in another manner that didn't cause fear.

19 Q. And prior to the three strikes rule, had you ever sent
20 someone home for the things that the three strikes rule
21 required you to send people home for?

22 A. No. Never.

23 Q. Okay. And prior to the implementation of the three
24 strikes rule, did Starbucks provide notice of this change to
25 the Union? A. They did not, no.

1 Q. Okay. And did the employer bargain with the Union over
2 this change?

3 A. No, they did not.

4 Q. Okay. Okay. And so, you mentioned that you had a
5 conversation with Hannah about how serious she was about this.
6 When did that happen?

7 A. It was July 2nd, 2022.

8 Q. Okay. And so where were you when you had this
9 conversation?

10 A. I had just started my shift. It was a Saturday, it was
11 around noon. I just punched in and before I even stepped onto
12 the floor to start work, she pulled me aside and we -- we sat
13 down in one of the tables in the lobby, store's lobby.

14 Q. Okay. And where was the table in the lobby?
15 It was right across from the main register that we would cash
16 out customers that came into the store.

17 Q. And for clarification, which store location did this
18 happen at?

19 A. This was at the Towanda location.

20 Q. Okay.

21 JUDGE RINGLER: And just one more time, who was at
22 this meeting?

23 THE WITNESS: It was myself and Hannah Stachowiak, my
24 store manager at the time.

25 BY MS. SNELLING:

1 Q. And was anyone else around?

2 A. Yes. It was a very busy day, so there were lots of
3 customers around. And then also the barista that was working
4 the front register, Katie. She overheard a lot of the
5 conversation as well as some of the other employees --

6 MR. BALSAM: Objection. This witness couldn't
7 possibly know what this witness overheard.

8 JUDGE RINGLER: I'll sustain that. You're saying you
9 believe she was within hearing distance of your conversation?

10 THE WITNESS: Yes, she did mention to me that she
11 overheard parts of the conversation.

12 JUDGE RINGLER: I'll -- I'll sustain your objection on
13 that part of it. But she was within a radius that you would
14 anticipate that she heard?

15 THE WITNESS: Yes.

16 JUDGE RINGLER: Okay.

17 BY MS. SNELLING:

18 Q. Okay. And how did the conversation with Hannah start?

19 A. So she sat me down and she had been on vacation, the week
20 previous. And she told me right away that she noticed that
21 while she was on vacation, she saw that during my shifts I did
22 not send any baristas home early. And so, in her mind that
23 meant that I was not following the three-strike rule.

24 Q. And what if anything, did you say in response to that?

25 A. I said a lot. So first I --

1 JUDGE RINGLER: Go slowly, I'm trying to --

2 THE WITNESS: Okay. I'm sorry. Sure.

3 BY MS. SNELLING:

4 A. So first I -- I let her know that I didn't send anyone
5 home early because I believe that my partners work to standard
6 when I run a shift. So there would be no need to send anyone
7 home early. She also suggested that because I was not sending
8 anyone home early and, in her interpretation, not following
9 three strike rule, that I should possibly step down as a shift
10 supervisor and not continue in that position.

11 I was very vocal that I felt that that was a threat
12 and very inappropriate. And then also, I gave an example of
13 when a few weeks prior to that, there was an employee that I
14 had to send home early for something that was very extreme.

15 And so that in my -- I -- I just said very clearly,
16 if I'm able to follow Starbucks policy, that's what I use when
17 I run my shift is Starbucks policy and Starbucks rules. Hannah
18 made it very clear that this the three-strike rule, even though
19 it's not Starbucks policy, it's her policy and we will be
20 following that.

21 Q. And so, you mentioned it's not Starbucks policy, so is
22 this in the Starbucks handbook Sam?

23 A. It is not, no.

24 Q. Okay. Had anyone given you feedback like this before?

25 A. Yep. So over my career, I've regularly had feedback.

1 It's always very encouraged to Starbucks to have development
2 conversations and to have feedback about your performance, but
3 this was -- this conversation was extreme.

4 Again, she did suggest that by not be a shift
5 supervisor. That I felt was an extreme response and was very
6 inappropriate. And I've never had any conversation like that
7 before in my career.

8 Q. Okay. And how did the conversation with Hannah end?

9 A. So I mean, it was a little bit heated in -- you know, a
10 respectful and professional way, but it -- I was defending
11 myself and I -- I made very clear that I felt like it was an
12 inappropriate conversation in her -- in her responses to me.

13 They were not -- not to Starbucks standards and she's
14 not speaking to me in a way that Starbucks encourages. She
15 noticed that the conversation became heated, so she suggested
16 that before I go back to work, I take a break.

17 Q. And so, did you take a break?

18 A. I did, yes.

19 Q. Okay. And -- and-- where did you go on your break?

20 A. I went out to my car.

21 Q. Okay. And what did you do in your car?

22 A. Sorry.

23 Q. It's okay.

24 A. So because I felt that the conversation was so
25 inappropriate, I decided to call Starbucks at like some

1 compliance department and file a report about what just
2 happened.

3 Q. And how long did that conversation last with Ethics and
4 Compliance?

5 A. It was 45 minutes to an hour, I would say.

6 Q. Okay. And do you remember who you spoke with?

7 A. I don't. All I know is that a third party handles these
8 calls. I believe it is run by a company called Sedgwick.

9 Q. Okay. And what did you tell someone that works at
10 Sedgwick?

11 A. Sure. I just relayed the conversation that I had with
12 Hannah to the representative. I made it very clear that I felt
13 threatened, that I was told that I should probably step down.
14 That I felt that it was inappropriate and that it was not
15 Starbucks standard.

16 Q. Okay. And what if anything, did they say in response?

17 A. I felt that they were understanding, and they told me that
18 they would look into it. They would investigate it and get
19 back to me as soon as they could.

20 Q. And how did the conversation end?

21 A. Just by that, that they would you know, be looking into
22 it, that it would be handled very discreetly and that they
23 would get back to me.

24 Q. And did Ethics and Compliance ever send you an email about
25 your complaint?

1 A. They did, yes.

2 Q. Okay. And if I showed it to you, would you recognize it?

3 A. I would, yes.

4 Q. Okay.

5 MS. SNELLING: Your Honor, I am distributing GC
6 Exhibit 19.

7 JUDGE RINGLER: Okay.

8 BY MS. SNELLING:

9 Q. Sam, do you recognize this?

10 A. I do, yes.

11 Q. Okay. What is this?

12 A. This is the automated follow up email that I received from
13 the Ethics department.

14 (General Counsel's Exhibit 19 identified.)

15 Q. Okay. And at the top it says ethics point. Is that the
16 email for Ethics?

17 A. It is, yes.

18 Q. Okay. And how -- and the email below that says
19 amatobuffalo@gmail.com. Is that your email?

20 A. That's my email, yes.

21 Q. Okay. And so -- and you received this on July 3rd?

22 A. Correct, yes.

23 Q. Okay. And is this a true and accurate copy of the email
24 that you received?

25 A. It is, yes.

1 Q. Okay.

2 MS. SNELLING: I move a -- GC Exhibit 19 into
3 evidence.

4 MR. BALSAM: Voir dire.

5 VOIR DIRE

6 BY MR. BALSAM:

7 Q. Mr. Amato, this seems to be a picture of the email that
8 you -- you received back from Ethics and Compliance.

9 A. Yes.

10 Q. What is -- where -- where do you take this picture?

11 A. So I was sent this email -- well I sent in a screenshot of
12 this to the Department of Labor when I sent in my report for
13 unemployment insurance and then they sent me back a packet that
14 had a copy of that screenshot and that's what I sent in to the
15 NRLB.

16 Q. Okay. So this is not actually the email that you received
17 from Ethics and Compliance. This is a copy of a picture of the
18 email.

19 A. It is a photo of the email, yes.

20 JUDGE RINGLER: So there's a screenshot from your
21 phone of the email?

22 THE WITNESS: Yes.

23 BY MR. BALSAM:

24 Q. Where is the original email that you received from Ethics
25 and compliance?

1 A. It would be in my email folder.

2 MR. BALSAM: Judge, based on the witness's own
3 testimony, best evidence is the actual email, not a copy of the
4 email and I request that this being on that basis --

5 JUDGE RINGLER: I -- I think I'm satisfied that he's
6 got a picture of his email and it's a screenshot. This is also
7 something that's readily verifiable by Starbucks itself to see
8 if you send an email. So I'm going to admit GC 19.

9 (GC Exhibit 19 was admitted into evidence.)

10 MS. SNELLING: And Your Honor, also right now would
11 probably be a natural stopping point or maybe a -- probably
12 like 5 to 10 more minutes of testimony would be good.

13 JUDGE RINGLER: Okay.

14 MS. SNELLING: Stopping point --

15 JUDGE RINGLER: Okay. Let's -- let's do it. Yep.
16 We're getting close to 6, so let's try to do the 5 to 10 more
17 minutes.

18 MS. SNELLING: Okay. Okay.

19 JUDGE RINGLER: That sounds fine.

20 MS. SNELLING: Okay, great. Thank you.

21 BY MS. SNELLING:

22 Q. Okay. You can flip the email over Sam.

23 A. Sure. Thank you.

24 Q. Okay. And after you spoke with Ethics and Compliance in
25 your car, did you return to work?

1 A. I did, yes.

2 Q. Okay. And when?

3 A. It was about 2 O'clock or 2:30 p.m., so this was now
4 roughly two, two and a half hours after I was supposed to start
5 my shift.

6 Q. Okay. And what happened when you returned to work?

7 A. It started off just -- you know, normal workday. I -- I -
8 - Hannah was the one operating the shift that day. I took over
9 for her. So when I came back to work, she left. I took
10 control of the shift, ran it as normal until I went on my
11 break.

12 Q. Okay. What happened when you went on your break?

13 A. So I -- I had a 30-minute break, and I sat down to eat my
14 lunch and --

15 JUDGE RINGLER: What was the time of your break, if
16 you recall? Just approximately.

17 THE WITNESS: It was probably around 6 O'clock I
18 would say.

19 JUDGE RINGLER: Okay. All right.

20 BY MS. SNELLING:

21 Q. And where did you take your break, Sam?

22 A. I sat at the table in my store's lobby.

23 Q. Okay. And so, what happened when you took your break?

24 A. So I was -- I sat down to eat my lunch and I started to
25 get a little emotional cause it was the first time all day that

1 I had time to relax and sit down. It had been a very busy day,
2 holiday weekend, always busy at Starbucks.

3 So this was the first time I -- I got some time to
4 myself to really think about the day's events and specifically
5 the conversation that Hannah had with me. So I became a little
6 bit emotional, which is unusual for me at work.

7 I'm always very levelheaded and I keep my composure
8 at work. And so, I became emotional, and my partners noticed
9 and came over to comfort me and have some kind words.

10 Q. Okay. And when they came over to you, what if anything
11 was said?

12 A. Well --

13 MR. BALSAM: Objection.

14 JUDGE RINGLER: Why do I need to know what the
15 partners said to him?

16 MS. SNELLING: Your Honor, this leads into protected
17 consolidated activity that Sam is going to testify to.
18 Essentially after this conversation, they all join in on the
19 ethics complaint with him, or a lot of people do.

20 JUDGE RINGLER: Okay. Okay. Go ahead. I'll let you
21 continue.

22 MS. SNELLING: Okay.

23 JUDGE RINGLER: Thanks for explaining that.

24 MS. SNELLING: Yep.

25 BY MS. SNELLING:

1 Q. Okay. So when you spoke with your coworkers, what did you
2 say?

3 A. Well, a few of them had already heard about the
4 conversation. As -- as I mentioned earlier, it was overheard
5 by some baristas. So a few of them knew some details. I also,
6 you know, relayed the conversation to them throughout the day.
7 They all just had kind words for me. They knew it was not
8 appropriate.

9 They -- they knew -- well they said that -- they said
10 that I should not have been spoken to in that manner and that I
11 should not have my position threatened by Hannah.

12 Q. Okay. And after this conversation with them, as a
13 collective, did you decide to do anything?

14 A. Yes.

15 Q. Okay. So what did you do?

16 A. First, a lot of partners reached out to me, including all
17 of the members of the shift team, and said that they would be
18 willing to talk to Ethics and give basically like a -- a
19 character witness or -- or testify that I do follow standard.

20 So they gave me their name -- they said I could give
21 their name and contact information to Starbuck's Ethics, which
22 I did. Also, the barista Katie, who did overhear part of the
23 conversation, reached out to me and said "Hey, I -- I heard
24 this conversation. It wasn't right. Please give my name and
25 number to Ethics".

1 So the first thing I did was call Ethics back. It
2 most likely was July 3rd and gave them the list of employees
3 that said they would vouch for me and asked them to add that to
4 the report that I already started. It also started discussions
5 about doing some kind of greater action because that was not
6 the only conversation that Hannah had where she --

7 MR. BALSAM: Objection, hearsay. Unless this witness
8 personally heard the things that he's about to testify to, it
9 would be complete hearsay and inappropriate for him to testify.

10 JUDGE RINGLER: Do you have personal knowledge?

11 THE WITNESS: I -- I was told by the partners --

12 MR. BALSAM: Objection --

13 JUDGE RINGLER: Okay. I'll -- I'll sustain.

14 BY MS. SNELLING:

15 Q. When you say greater action, what do you mean Sam?

16 A. The word strike was thrown around a lot and we just began
17 discussions about what that would look like, what it would
18 mean, how we think it would go.

19 And that did eventually lead to us going on strike
20 the following Friday. So July 2nd, the con -- the day I had
21 the conversation with Hannah was a Saturday. And so, the
22 following Friday we went on strike.

23 Q. Okay. And what if anything happened the day before the
24 strike?

25 A. Yes. So the day before the strike I was scheduled a

1 closing shift --

2 JUDGE RINGLER: And this is Thursday?

3 THE WITNESS: This --

4 JUDGE RINGLER: July 7th?

5 THE WITNESS: Yes.

6 JUDGE RINGLER: Okay. Am I right on date Counsel?

7 THE WITNESS: It was a Thursday. Okay.

8 JUDGE RINGLER: Thursday, July 7th.

9 MS. SNELLING: I believe you are, Your Honor. And
10 I'll get an exhibit in that makes clear the date that they went
11 on strike as well.

12 JUDGE RINGLER: Okay. So -- so -- so we are the day
13 before the strike?

14 THE WITNESS: Yes.

15 JUDGE RINGLER: I think it's Thursday, July 7th.

16 THE WITNESS: Yes.

17 JUDGE RINGLER: Go ahead.

18 BY MS. SNELLING:

19 A. Yeah. So I -- I was scheduled for a closing shift, but
20 often night there were multiple supervisors scheduled. It was
21 just -- that was how our availability worked. So I was
22 scheduled just for a barista shift, meaning I was not in
23 control of running the shift. It was another employee. His
24 name is Taher.

25 We call him T like the letter T for short. So T was

1 running the shift. I came to work, and T informed me that he
2 had this idea and he spoke with the baristas, and they were all
3 on the same page, that we would operate the shift to Hannah's
4 three strike rule standard. So they kind of fabricated a
5 situation where T would catch baristas not working to standard.
6 Again, this was -- this was fabricated. So they --

7 MR. BALSAM: Ob -- objection. Move to strike. Unless
8 this is personal knowledge of anything he's testifying to, I
9 would say that --

10 JUDGE RINGLER: Well, you were there and --

11 THE WITNESS: I was there.

12 JUDGE RINGLER: Okay, I'll allow you to continue. Go
13 ahead.

14 THE WITNESS: So, throughout the course of the night
15 we sent two bar -- T sent two baristas home that were not
16 following standard, and we went -- he went through this three-
17 strike rule with them and sent them home. Again, it was
18 planned, it was not unintentional.

19 It was something that was planned. And then T -- it
20 was maybe around 6 o'clock, so a few hours before we closed,
21 then called Hannah had her own speaker phone and informed her
22 that there were several baristas that were not following
23 standard. We went through the three-strike rule. He had to
24 send them home and she said, "okay, good job. Thank you for
25 doing that".

1 Closed the store early, and we have to close early
2 because it would just be T and I for several more hours, breaks
3 were needed. It was just -- it's not really feasible to run
4 the store with just two people.

5 MS. SNELLING: Your Honor, I'm going to have two more
6 exhibits. If -- if we get to like, another stopping point. Do
7 you want to stop -- This is also a decent stopping point if we
8 want to stop here. I could probably get them in in the next
9 five minutes though.

10 JUDGE RINGLER: Yeah. Why don't we do that?

11 BY MS. SNELLING:

12 Q. Okay. So Sam, before you went on strike --

13 A. Mm-hmm.

14 Q. What, if any, notice did you provide to store management?

15 A. So the morning of the strike before the store was supposed
16 to open, so I would say around 4 in the morning, an email was
17 sent to Hannah, Howard Schultz and I believe another member,
18 oh, Sebastian Garcia, who was our district manager at the time,
19 informing them that we were going on strike.

20 Q. And how -- what did you send to them to inform them?

21 A. It was a -- in my opinion lengthy email discussing several
22 reasons why we were going on strike. And it also had my name
23 and a bunch of other partners names attached.

24 Q. Okay. And if I showed you this notice, would you
25 recognize it?

1 A. I would, yes.

2 (General Counsel's Exhibit 20 identified.)

3 Q. Okay, great.

4 MS. SNELLING: Your Honor, I'm distributing copies --

5 JUDGE RINGLER: Okay.

6 MS. SNELLING: Copies of GC Exhibit 20.

7 JUDGE RINGLER: All right. Thank you.

8 MS. SNELLING: Mm-hmm

9 JUDGE RINGLER: And I think once we wrap this one up,
10 it's probably a good point unless you disagree, and you've got
11 something else.

12 MS. SNELLING: I -- I have one other -- it -- it'll
13 take like three more questions --

14 JUDGE RINGLER: Sure. That's fine.

15 MS. SNELLING: To get one more thing in evidence,
16 then that would be good stuff.

17 JUDGE RINGLER: Okay. That'll be good.

18 MS. SNELLING: Okay

19 BY MS. SNELLING:

20 Q. So Sam, do you recognize this?

21 A. I do, yes.

22 Q. Okay. What is this?

23 A. This is the email that we sent over to Howard, Sebastian
24 and Hannah informing them that we are going on strike.

25 Q. Okay. And you can flip through the pages really quickly.

1 Is this a complete and accurate copy to the best of your
2 recollection of what was sent to the individuals listed at the
3 top?

4 A. Yes.

5 Q. Okay. And do you see your name on this document?

6 A. I do. Second one after sincerely.

7 Q. Okay, great.

8 MS. SNELLING: I move GC Exhibit 20 into the -- into
9 evidence.

10 MR. BALSAM: Voir dire

11 JUDGE RINGLER: Go ahead.

12 VOIR DIRE

13 BY MR. BALSAM:

14 Q. You testified that. This letter was sent to Howard
15 Schultz, Sebastian Garcia and Hannah Stachowiak, is that co --
16 Correct?

17 A. Correct, yes.

18 Q. Was this an attachment to an email?

19 A. Yes, it was an attachment to an email.

20 Q. Was there any content attachment to an email? I mean, was
21 there any content in the email?

22 A. I don't believe so.

23 Q. Was this attached?

24 A. No, I don't believe so.

25 Q. Did you receive a written response?

1 A. No.

2 MR. BALSAM: No objection, Judge.

3 JUDGE RINGLER: All right. We'll admit GC 20.

4 (GC Exhibit 20 was admitted into evidence.)

5 Q. Okay. And Sam, you can flip that over. Okay. And at any
6 point after you sent this list of strength demands, did you
7 mention these demands or some other demands again, to the
8 employer?

9 A. Yes. A few weeks later we -- or maybe a few days later,
10 we sent another email with a list of terms that we would like
11 to be met at our store.

12 Q. Okay. And -- okay. And how did you send these demands?

13 A. Those were sent through my personal email.

14 Q. Okay. And if I showed you the email with the demands,
15 would you recognize them?

16 A. I would, yes.

17 Q. Okay.

18 MS. SNELLING: Your Honor, I'm distributing --

19 JUDGE RINGLER: Okay.

20 MS. SNELLING: GC Exhibit A and B.

21 JUDGE RINGLER: You said A and B, you mean 21(A and
22 B)?

23 MS. SNELLING: 21(A and B), yes.

24 JUDGE RINGLER: Okay. All right. Thank you.

25 BY MS. SNELLING:

1 Q. Okay. And Sam, do you recognize this?

2 A. I do, yes.

3 Q. Okay. What is this?

4 A. This is a list of demands that my store had that we sent
5 to members of management that we -- we wanted these to be met.

6 (General Counsel's Exhibit 21A and B identified.)

7 Q. Okay. Okay, so we'll focus on A -- GC 21(A) first.

8 A. Sure.

9 Q. So did you send this email?

10 A. I did, yes.

11 Q. Okay. And how do we know that you sent this email?

12 A. At the top it says Sam, that -- that would be from my
13 email.

14 Q. And - and -- and so -- GC 21(B) is what's attached in this
15 email?

16 A. Correct, yes.

17 Q. Okay. And so, GC 21B is the --do you -- do you recognize
18 it?

19 A. I do, yes.

20 Q. Okay. And is it a true and accurate copy of the demands
21 that you sent within this email?

22 A. It is, yes.

23 Q. Okay.

24 MS. SNELLING: So I move forward GC exhibit 21A and B
25 into evidence.

1 MR. BALSAM: Voir dire.

2 JUDGE RINGLER: Go ahead.

3 VOIR DIRE

4 BY MR. BALSAM:

5 Q. Mr. Amato, what's the email address in what you sent this
6 document to -- from?

7 A. From -- it would be amatobuffalo@gmail.com. It shows up
8 as Sam when I --

9 Q. Do you still have a copy of this email attachment your --
10 your --

11 A. I'm sure I do, yes.

12 Q. Did you receive a response to this email?

13 A. No. I did not.

14 MR. BALSAM: No objection, Judge.

15 JUDGE RINGLER: Okay. So we'll admit 21(A and B).

16 MS. SNELLING: Okay.

17 JUDGE RINGLER: GC 21 A and B.

18 (GC Exhibit 21 A and B was admitted into evidence.)

19 MS. SNELLING: Okay. And I just -- one quick
20 question, Your Honor. Then I think we'll be done for today.

21 JUDGE RINGLER: Okay. Whatever you got to do, go
22 ahead.

23 BY MS. SNELLING:

24 Q. Okay Sam, who did you send this to?

25 A. I sent this to Sebastian, Howard Schultz, Hannah, Alan

1 Model who was the lawyer that was working with Starbucks at the
2 time. Also, Kathleen Kelly, who was a representative from
3 partner relations, which is basically our Human Resources
4 department. And then I also -- I believe I also included
5 Michelle Eisen, who is one of the senior members of our union.

6 Q. Okay.

7 MS. SNELLING: That is a good natural stopping point
8 --

9 JUDGE RINGLER: Okay. All right. I'll put up to on
10 my notes.

11 MS. SNELLING: Okay.

12 JUDGE RINGLER: Okay, thanks. We'll reconvene
13 tomorrow at 9:00 a.m. Just roughly for planning purposes, how
14 much longer do you think you have with Mr. Amato?

15 MS. SNELLING: Probably about 30 to 40 minutes.

16 JUDGE RINGLER: Okay.

17 MS. SNELLING: We do have a recording tomorrow, Your
18 Honor, but it does have a transcript as well.

19 JUDGE RINGLER: Perfect.

20 MS. SNELLING: And it's only an audio recording. And
21 so -- but you'll be able to listen and follow along.

22 JUDGE RINGLER: Okay. Very good.

23 MR. BALSAM: Judge, before we adjourn and I want to
24 make sure it's on the record, would you please instruct the
25 witness and remind them not to discuss their testimony with

1 anyone.

2 JUDGE RINGLER: Oh, absolutely. Yes. Thank you for
3 that. We're going to excuse you for now. We're in the middle
4 of your testimony, so please do not discuss your testimony with
5 anyone.

6 THE WITNESS: Okay.

7 JUDGE RINGLER: Okay. Thank you, sir. All right,
8 we'll see you tomorrow.

9 THE WITNESS: Thank you.

10 MR. BALSAM: Thank you Judge.

11 JUDGE RINGLER: Alright. Tomorrow at 9 O'clock. You
12 can leave -- just flip over -- and that'll -- Okay. All set
13 for the day. It's been a busy day. Interesting, exciting.
14 All rolled up with the one. All right.

15

16 (Whereupon, at 6:06 p.m., the hearing in the above-entitled
17 matter was recessed to reconvene on Wednesday, April 19, 2023,
18 at 9:00 a.m.)

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CERTIFICATION

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region (#), in the matter of STARBUCKS CORPORATION, Case No. 03-CA-295810, at National Labor Relations Board, on April 18th, 2023, was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the recording from the hearing, that the exhibits are complete and no exhibits received in evidence or in the rejected file are missing.

Rhett Baker

Rhett Baker

—	accept (5) 288:20;375:17; 376:14;390:2,12	233:21;264:19; 418:11	394:16;438:5	319:18,18,20;320:1; 357:15,18;370:8; 391:4,5;392:6,9,10	
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